

By Mr. TAYLOR of Tennessee: A bill (H. R. 10303) granting an increase of pension to Benjamin Jackson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10304) granting a pension to Rhoda Beeler; to the Committee on Invalid Pensions.

By Mr. IRELAND: Resolution (H. Res. 367) to pay Emil Edward Hurja, clerk to the late Hon. Charles A. Sulzer, one month's salary; to the Committee on Accounts.

#### PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. BRIGGS: Petition of Soldier Settlement Board of Texas, indorsing Mondell bill for soldier settlement under the so-called Lane plan; to the Committee on Military Affairs.

Also, petition of Ninetieth Division Association, indorsing universal military training in limited form; to the Committee on Military Affairs.

By Mr. BURROUGHS: Resolutions of the Educational Council of New Hampshire, by H. P. Swett, secretary, advocating the passage of the Smith-Towner bill; to the Committee on Education.

By Mr. CRAGO: Petition of Ninetieth Division Association, Dallas, Tex., favoring an adequate Regular Army as a nucleus for properly training citizens universally for military service; to the Committee on Military Affairs.

By Mr. EDMONDS: Petition of Philadelphia Board of Trade, opposing passage of Senate bill 1469; to the Committee on Banking and Currency.

By Mr. FULLER of Illinois: Petition of Free Sewing Machine Co., Rockford, Ill., favoring passage of Senate bill 2904 and House bills 8115 and 8315; to the Committee on Patents.

Also, petition of the Monroe County (N. Y.) Civil War Veterans' Association, favoring the Fuller pension bill, House bill 9369; to the Committee on Invalid Pensions.

Also, petition of the Women's Relief Corps, of Streator, Ill., for increase in Civil War pensions; to the Committee on Invalid Pensions.

By Mr. KAHN: Petition of Ninetieth Division Association on the importance of universal military training for the youths of the United States; to the Committee on Military Affairs.

By Mr. MOORE of Pennsylvania: Petition of Philadelphia Board of Trade in opposition to the bill to create a Federal home loan board; to the Committee on Ways and Means.

By Mr. TAYLOR of Tennessee: Petition of Sanford, Chamberlain & Albers Co., of Knoxville, Tenn., favoring passage of House bill 5123 without amendments; to the Committee on the Post Office and Post Roads.

By Mr. TILSON: Petition of bottling concerns of New Haven, Conn., for repeal of section 628 of the revenue act of 1918; to the Committee on Ways and Means.

By Mr. VARE: Petition of Philadelphia Board of Trade, protesting against passage of Senate bill 1469, to create a Federal loan board; to the Committee on Ways and Means.

#### SENATE.

FRIDAY, October 31, 1919.

(Legislative day of Thursday, October 30, 1919.)

The Senate met at 12 o'clock noon, on the expiration of the recess.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 641) to amend section 10 of an act entitled "An act to provide for the operation of transportation systems while under Federal control, for the just compensation of their owners, and for other purposes," approved March 21, 1918.

The message also announced that the House had passed a bill (H. R. 9112) authorizing the Secretary of War to loan Army rifles to posts of the American Legion, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the bill (S. 2775) to promote the mining of coal, phosphate, oil, gas, and sodium on the public domain, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the concurrent resolution of the Senate numbered 15 assuring the administration of the support of the Congress in dealing with the present industrial emergency.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the President pro tempore:

H. R. 9205. An act making appropriations to supply deficiencies in appropriations for the fiscal year ending June 30, 1920, and prior fiscal years, and for other purposes; and

H. R. 9697. An act to extend the time for the completion of a bridge across Pearl River, between Pearl River County, Miss., and Washington Parish, La.

#### TREATY RESERVATIONS (S. DOC. NO. 148).

Mr. LODGE. Mr. President, I ask unanimous consent for a reprint of Senate Document No. 135, a compilation of treaty reservations. It includes all that were in the bound volume, but there were some treaties later that were not included in the bound volume and in which I find two cases of reservations. I should like to have a reprint to include those two cases.

The PRESIDENT pro tempore. Without objection, it is so ordered.

#### LEAGUE FOR PRESERVATION OF AMERICAN INDEPENDENCE.

Mr. LODGE. I present a letter from the Nebraska League for the Preservation of American Independence. I ask that it may be printed with the enrolled membership in the Record and referred to the Committee on Foreign Relations.

There being no objection, the letter was referred to the Committee on Foreign Relations and ordered to be printed in the Record, as follows:

NEBRASKA LEAGUE FOR THE  
PRESERVATION OF AMERICAN INDEPENDENCE,  
Freemont, Nebr., October 27, 1919.

HON. HENRY C. LODGE,  
Chairman Committee on Foreign Relations,  
Washington, D. C.

DEAR SENATOR LODGE: Herein find a batch of original membership rolls in our League for the Preservation of American Independence. Many other towns are in process of organization, and many actually organized have retained the membership rolls.

This inclosure contains the following signed rolls from the following places in Nebraska, with the number of signers, to wit:

Freemont and Dodge County	188
Fairmont	64
Hastings	84
Callaway	8
Hebron	10
St. Paul	27
Fullerton	15
Pawnee City	20
Ord	11
Oakdale	105
South Omaha	19
Lexington	148
Fairbury	2
Total	692

In addition to the foregoing, there are large organizations in each of the following towns in Nebraska, to wit:

Omaha, Lincoln, Beatrice, Aurora, David City, Columbus, Silver Creek, and others.

Practically without funds or men we have accomplished all this in four weeks.

The strongest argument against the present covenant of the league of nations we have found to be the covenant itself.

The sole obstacle we encountered has been the serene belief of the people that the Senate could be trusted to prevent the consummation of this international assinnity.

We all believe our fight won, but are conscious that there are often relapses in hysteria.

We thank you for your great service to the Nation.

Yours, very truly,

W. M. CAIN, Secretary.

#### THE GOVERNMENT AND THE STRIKE.

Mr. POMERENE. Mr. President, in this morning's Washington Post there appears an editorial on the Government and the strike. It expresses the situation so clearly and so plainly that he who runs may read. I ask unanimous consent that it may be printed in the Record without reading.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The editorial is as follows:

#### "THE GOVERNMENT AND THE STRIKE."

"The resolution adopted by the United States Senate accurately reflects public sentiment. The people stand solidly behind the President and applaud the vigorous policy of the Government in preparing to frustrate the efforts of the deluded men who seek to freeze and starve the country into surrender.

to their unreasonable demands. If the leaders of the coal miners have any discretion, they will avoid going a step farther on the road that leads to prison; and if the miners stop and think, they will refuse to be made the tools of agitators who are seeking only their own individual advantage.

"The Government is in duty bound to protect the people. If moderate measures do not avail, then sterner measures will be used. There is no limit to the power that can be exerted by the Government. It can crush to powder any combination that raises its hand against the public welfare. It can reach out and take into custody every individual, high or low, who conspires to interfere with the output of coal or who aids or abets in such interference. It can take charge of the mines, put men at work, and protect them while they work. The utter folly of the United Mine Workers' leaders in assuming that they can with impunity defy the United States will become apparent very quickly if they dare to go on with their criminal work.

"There are rumors that other labor leaders will endeavor to bolster up the coal strike by ordering strikes on the railroads. Let us hope that these leaders will not make such a mistake, which would be so disastrous to themselves personally and so injurious to the cause which organized labor has given into their keeping. These leaders have no right to sacrifice their followers through motives of malice, anger, or private advantage. They hold a solemn trust—the welfare of hundreds of thousands of families. They should put aside their personal feelings and recognize their responsibility to their followers. The same law which forbids conspiracies to limit coal production also forbids conspiracies to interfere with transportation. The penalty for violation of the law is plainly stated, so that no man need become guilty through ignorance. If any man draws down upon him the heavy hand of the Government and is sent to prison, it will be his own fault, because he has been duly warned to avoid committing unlawful acts.

"The blunders made by such men as Foster in the steel strike and Lewis in the coal strike are a sharp reminder to union labor that it should be extremely careful in selecting its leaders. The man of violent speech and extreme action is not the man who should be clothed with responsibility for the cause of union labor. This is not a brute-force struggle, but a battle of brains. If the workers will run over the list of labor leaders during the last 50 years, they will notice that union labor received most benefit from moderate, quiet, intelligent men, who carefully worked forward, point by point, and held by law and logic every inch they gained. The least benefit was derived from the haranguing agitators who bragged of their devotion and who advocated extreme methods. The most successful labor unions are those that are never engaged in strikes or other interruptions.

"Americans are more than glad to defend the rights of labor. All of them who are worth their salt are themselves workers at something useful. The country looks with favor upon unions and recognizes that a man has a right to work or quit work as he pleases. The Government has not the slightest intention to interfere with the right of the coal miners to quit work. Attorney General Palmer has made this fact very clear. This is a free country, and the people will keep it free. Those who wish to quit can quit, but they can not make others quit. Those who wish to work can work, but they can not make others work. Therefore there is no ground whatever for the fear expressed by certain labor leaders, to the effect that the Government is to be used as an instrument of tyranny in behalf of employers against employees. That suggestion is a gratuitous piece of disloyalty, and if the labor leaders in question were really patriotic Americans they would not have uttered it. They arouse suspicion as to the quality of their Americanism when they impute base motives to their own Government.

"This is not a propitious time for any labor leader to impugn the Government, but rather a time for fearless opposition to the Bolshevism that anti-Americans are trying to inject into organized labor."

#### EX-PRESIDENT TAFT'S VIEW OF THE STRIKE SITUATION.

Mr. SMITH of Georgia. Mr. President, I wish to call attention to an Associated Press dispatch in the morning papers giving an account of a speech made by ex-President Taft in Massachusetts. In that speech this language was used, according to the Associated Press dispatch:

"In an ordinary strike," he said, "incidental annoyance to the public, which is negligible, does not render the strike illegal. But when enormous combinations of workmen deliberately enter upon a country-wide plan to take the country by the throat and compel the country to compel the employers in that particular field of industry to yield to the demands of the men, they are engaged in an unlawful conspiracy. The sacredness of their individual right to labor on such terms as they

choose and to leave their employment when they will does not protect or justify them in such a conspiracy.

"That is the kind of a conspiracy the bituminous coal miners propose to begin on November 1."

I ask that the entire dispatch may be printed in the Record, and I ask the consideration of the Senate to the suggestion that there are two different kinds of strikes, and that the class of strikes referred to by the ex-President and termed "unlawful" and termed a "conspiracy" against the Government is one that we may well reach not only now under the fuel-control act but in time of peace, and that if legislation is not already sufficient to suppress such a movement the responsibility is upon us to pass such legislation.

There being no objection, the matter referred to was ordered to be printed in the Record, as follows:

"TAFT DECLARES CALLING OF SOFT-COAL STRIKE ILLEGAL CONSPIRACY.

"MALDEN, MASS., October 30.

"Former President William H. Taft, speaking to-night at a political rally here, declared that the bituminous coal miners in calling a strike were 'engaged in an unlawful conspiracy,' and that Congress had full power to 'condemn such a cruel conspiracy as an offense.'

"In an ordinary strike," he said, "incidental annoyance to the public, which is negligible, does not render the strike illegal. But when enormous combinations of workmen deliberately enter upon a country-wide plan to take the country by the throat and compel the country to compel the employers in that particular field of industry to yield to the demands of the men, they are engaged in an unlawful conspiracy. The sacredness of their individual right to labor on such terms as they choose and to leave their employment when they will does not protect or justify them in such a conspiracy.

"That is the kind of conspiracy the bituminous coal miners propose to begin on November 1. The extent of the suffering that they plan to impose upon the public can not be measured. It will fall upon the poor wage earner whose employer will have to shut down for lack of coal.

"The locomotive firemen are threatening a similar strike. If they enter upon this plan, it will constitute a conspiracy to starve the people of the United States into some kind of action to compel the authorities to pay the wages they demand. Congressmen condemn this as an unlawful conspiracy, too."

#### INDUSTRIAL UNREST.

Mr. DIAL. Mr. President, I have here a very timely editorial from the *Laurens Advertiser*, of Laurens, S. C., one of the very sound newspapers of the country, on the subject of strikes. I ask unanimous consent that without reading it may be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

#### "INDUSTRIAL UNREST.

"Picking up at random a daily paper of Saturday and reading the top headlines of every column on the page showed that without exception every column dealt with the industrial unrest of the day. Six of the seven columns dealt with labor troubles in the United States and the seventh dealt with similar troubles in England. The problem of the war has given way to its after effects, and the after effects seem harder to solve than the war itself. Their results, in this country at least, promise to be more far-reaching than the war.

"The problem of the equitable distribution of profits in industry is a difficult one. That the laborer with his hands as distinguished from the laborer of brains is entitled to a fair share of profits can not be denied, the difficulty being a division of the profits without endangering the permanence of the industry. When the rewards of mental labor cease to be as large as those for hand labor the incentive for education and training will be removed, to the great loss of the industry itself. This and the creative power of capital with the risks that capital runs do not seem to appeal to those who cry out for 'industrial freedom' and demand an unreasonable return for the day's labor. They may be killing the goose that is laying the golden egg. Unless a stopping place is reached pretty soon we may expect a paralysis of industry, and the regular pay roll, small as it may seem now, may cease altogether, and conditions in this country will arise similar to those in Russia to-day.

"Collective bargaining, so called, is all right, provided it is confined to bargaining. When it begins to resolve itself into collective intimidation and opposition to the law it is all wrong. The Constitution of this country guarantees every man the right to earn an honest living, and when collective bargaining is stretched into the privilege of keeping another man from work it has transgressed the rights guaranteed to every citizen. The law and the Constitution should be upheld to the letter."



## PERSONAL EXPLANATION.

Mr. KNOX. Mr. President, as a matter of personal privilege, I should like to call attention to the fact that in this morning's New York Tribune there appeared two articles, one of which was intended to put me in a very ridiculous position in the eyes of the world and the other in rather an embarrassing position as between myself and one of my colleagues in the Senate, both of which were absolutely untrue.

The first purported to give a report of my call upon the King of the Belgians during his visit to the city of Washington, in which it was said I was compelled to cool my heels in the antechamber while the King was conversing with Mr. Samuel Gompers. I never called on the King of the Belgians while he was in the city of Washington and never saw the King of the Belgians except as I saw him here in the Chamber, where we all were glad to do him honor.

The other article had reference to a remark made by the Senator from Wisconsin [Mr. LA FOLLETTE] during his address in the Senate yesterday. It was in relation to some confusion in the Chamber, and it is stated that the Senator from Wisconsin turned and remarked that if there was a little more order in the coal section of the Senate he could proceed, indicating, as the paper stated, Senator Knox, of Pennsylvania, Senator SUTHERLAND, of West Virginia, and Senator ELKINS, of West Virginia.

I have not spoken to the Senator from Wisconsin upon this subject at all, but I should like to ask him if at any time during that or any other address he ever made while I was in the Chamber he did not receive my most respectful attention?

Mr. LA FOLLETTE. Mr. President, I will say that whenever I have addressed the Senate I have always been honored and encouraged by the considerate attention of the junior Senator from Pennsylvania [Mr. KNOX]. I remember well the first attempt that I made to address the Senate at the beginning of my service here. The junior Senator from Pennsylvania sat very near to me then, in what was known as "the Cherokee strip," and by suggestions and friendly attention encouraged me throughout my first speech in the Senate. I presume he has forgotten that occasion, but, sir, I never have forgotten it. From that time down to this day I have never made an address in the Senate that I have not had the very closest attention from the Senator from Pennsylvania when he was present, often I have thought beyond the deserving of my effort.

Upon the occasion to which he has just referred, when I spoke upon the resolution offered by the Senator from Colorado [Mr. THOMAS], I recall that I was interrupted by the audible conversation of other Senators sitting quite apart from the Senator from Pennsylvania [Mr. KNOX]. I did at the time make some reference to the interruption, which I withdrew from the RECORD, as I was satisfied that no discourtesy was intended.

## HOUSE BILL REFERRED.

H. R. 9112. An act authorizing the Secretary of War to loan Army rifles to posts of the American Legion was read twice by its title and referred to the Committee on Military Affairs.

## PETITIONS AND MEMORIALS.

Mr. TOWNSEND presented the petitions of L. G. Grey, a citizen of the State of Michigan, praying for the separation of the league of nations covenant from the treaty of peace with Germany, remonstrating against the adoption of the proposed league of nations covenant unless certain reservations are adopted, and remonstrating against the ratification of the treaty of peace with Germany, which were ordered to lie on the table.

He also presented a memorial of Local Lodge No. 848, Brotherhood of Railway Carmen, of Muskegon, Mich., remonstrating against the adoption of certain clauses in the so-called Cummins bill for the private ownership and control of railroads, which was ordered to lie on the table.

He also presented a memorial of the Michigan Association of Creamery Owners and Managers remonstrating against the enactment of legislation which will in any way conflict with the established trade practices in the creamery industry, which was referred to the Committee on Agriculture and Forestry.

He also presented a memorial of Local Council No. 1585, Knights of Columbus, of Baraga, Mich., remonstrating against the War Department taking over work heretofore performed in Army camps by various welfare societies, which was referred to the Committee on Military Affairs.

Mr. PAGE presented a memorial of the Ladies' Auxiliary, Ancient Order of Hibernians of America, remonstrating against the ratification of the proposed league of nations treaty, which was ordered to lie on the table.

Mr. LODGE presented a memorial of the State Council of New Jersey, Junior Order United American Mechanics, and a

memorial of sundry citizens of Framingham, Mass., remonstrating against the ratification of the proposed league of nations treaty unless certain reservations are adopted, which were ordered to lie on the table.

## DEPORTATION OF ALIENS.

Mr. DILLINGHAM. Mr. President, yesterday I reported from the Committee on Immigration the bill (H. R. 6750) to deport certain undesirable aliens and to deny readmission to those deported. The bill has passed the House, and I understand by a unanimous vote. I am in possession of a letter from the Attorney General urging the immediate passage of the bill. It should be done before the treaty is acted upon, as without this additional legislation those who are now interned and those who have violated any of the war acts and have been convicted of the same must be turned free. I therefore ask unanimous consent for the present consideration of the bill.

Mr. GRONNA. Mr. President, I do not know that I shall have any objection whatever to the bill, but I wish to say that I can not consent this morning to its immediate passage without some consideration.

The PRESIDENT pro tempore. Objection is made.

## CANADIAN OWNERSHIP OF AMERICAN RAILROADS.

Mr. KELLOGG. By direction of the Committee on Interstate Commerce I report back favorably without amendment Senate resolution 222, and I ask unanimous consent for its immediate consideration. I will state that the resolution simply requests the Interstate Commerce Commission to investigate and furnish the Senate the information as to either the present or the prospective ownership by the Canadian Government of any railroads within the United States.

There being no objection, the resolution was considered by unanimous consent and agreed to, as follows:

*Resolved*, That the Interstate Commerce Commission be directed to investigate and report to the Senate the facts in connection with the present or prospective ownership or control by the Government of the Dominion of Canada, either directly or through the ownership and control of the stocks of any corporation or company, of any line or lines of railway or part thereof, situate within the territory of the United States, together with a statement of the mileage of said railroads.

## BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. WOLCOTT:

A bill (S. 3349) granting an increase of pension to John A. McAleer; to the Committee on Pensions.

By Mr. JONES of Washington:

A bill (S. 3350) granting an increase of pension to Henry S. Back (with accompanying papers); to the Committee on Pensions.

By Mr. CAPPER:

A bill (S. 3351) to create in the Army of the United States a corps to be known as the Corps of Chaplains; to the Committee on Military Affairs.

By Mr. SWANSON:

A bill (S. 3352) increasing the limit of cost of the Aqueduct Bridge across the Potomac River; to the Committee on Public Buildings and Grounds.

By Mr. HENDERSON:

A bill (S. 3353) to save daylight in the District of Columbia; to the Committee on the District of Columbia.

By Mr. BRANDEGEE:

A bill (S. 3354) to authorize the President of the United States to reappoint Seth William Scofield major of Cavalry; to the Committee on Military Affairs.

By Mr. HENDERSON:

A joint resolution (S. J. Res. 121) declaring November 11 a legal public holiday to be known as armistice day; to the Committee on the Judiciary.

## WITHDRAWAL OF PAPERS—SALLIE HARDWICK.

On motion of Mr. FLETCHER, it was

*Ordered*, That the papers accompanying the bill (S. 589, 66th Cong., 1st sess.) granting a pension to Sallie Hardwick, be withdrawn from the files of the Senate, no adverse report having been made thereon.

## THE IRISH QUESTION.

Mr. WALSH of Massachusetts. I ask unanimous consent to have printed in the RECORD a letter from Michael J. O'Brien, the historiographer of the American Irish Historical Society of New York, in answer to a portion of a recent speech by the Senator from Mississippi [Mr. WILLIAMS] in regard to the service of soldiers of Irish extraction in the Civil War. The letter is very short, and I ask that it be inserted in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:



OCTOBER 22, 1919.

HON. DAVID I. WALSH,  
United States Senator from Massachusetts,  
Washington, D. C.

DEAR SIR: I am taking the liberty of addressing you for the purpose of requesting that you have inserted in the CONGRESSIONAL RECORD an answer to the speech of the Hon. JOHN SHARP WILLIAMS in the Senate on October 16. In that speech much was said about the Irish in the Civil War. It was asked, among other things, "What did the Irish have to do with it?"

In a previous letter I quoted, among other unquestionable evidence proving Irish participation in the Revolutionary War, the testimony of the commanding general of the enemy forces, and I shall now quote for your information a statement of the commanding general of the enemy forces in the Civil War, Gen. Robert E. Lee.

If one will look up the files of the New York Sun at the Library of Congress and turn to the issue of that paper of April 17, 1885, he will find a report of a long interview which Rev. George W. Pepper, chaplain of the Fifteenth Corps, Army of the Tennessee, had with Gen. Lee. The interview was held in Richmond a short time before the close of the war, and among the many interesting things contained in it I quote the following, word for word:

"To the question, 'What, Gen. Lee, in your opinion, caused the failure of the South?' 'I am not a very good extemporaneous speaker,' he replied. 'The most important factor was the superiority in the immense numbers of your soldiers and in your unbounded resources. The North had all the advantages, a land of vast wealth, cities secure from the evils of civil war, and a constant stream of emigrants from Ireland and Germany to replenish your diminished ranks. In a speech of Mr. Everett's, which I have been reading this very day, he states that there were at one time 200,000 Irishmen in the Federal armies. The population of the South was never more than 7,000,000. With 5 to 1 against them the men of the Confederacy performed a mighty task and made a tremendous step toward their independence.'"

In another part of this remarkable interview, Dr. Pepper wrote: "Our next topic of conversation was the European element in both armies. Speaking of the Irish, he declared with much feeling that 'the South could not reconcile with their ideas of consistency how Irishmen who were so violently opposed to the thralldom of Britain could enlist on the northern side when all the wrongs of Ireland were mosquito bites in comparison to those inflicted on the South.'"

"Adverting to the character of the Irish as soldiers, the general paid them a high compliment. 'Cleburne,' he said, 'was possessed of a hero's heart and a soldier's honor. On a field of battle he shone like a meteor in a clouded sky. Not a single vice stained him. The care which he took of his soldiers was incessant. His integrity was proverbial.'"

"I mentioned the name of Thomas Francis Meagher as the popular idol of the northern Irishmen. 'Yes,' continued he, 'Meagher on your side, though not Cleburne's equal in military genius and experience, rivaled him in bravery and in the affections of his soldiers. The heroic stand and desperate though fruitless gallantry of that brigade of Meagher's upon the heights of Fredericksburg never has been equaled. Though totally routed they reaped a harvest of glory. Their reckless and splendid charges upon our lines excited the heartiest applause of our soldiers and officers. Meagher was the bravest of the brave.'"

"I inquired about the residence of John Mitchel, upon whom I subsequently called. He gave me the address and continued: 'Mitchel is a born Confederate, a powerful and brilliant writer, a scholar of splendid ability, a gallant gentleman, to the South always true, and a tower of strength to our cause.'"

It is to be assumed that Gen. Lee was as competent a witness to testify upon the events of the Civil War as Gen. Clinton was upon the events of the Revolutionary War, and now that the Senator has had this remarkable statement brought to his attention, I hope he will act the part of a southern gentleman and withdraw his cruel and unjustifiable animadversions upon the Irish in the Civil War.

Very respectfully,

MICHAEL J. O'BRIEN.

#### PRESSING DOMESTIC QUESTIONS.

MR. WILLIAMS. Mr. President, I ask unanimous consent to have inserted in the RECORD an article by Mr. William R. Boyd, jr., national campaign manager of the League to Enforce Peace, the article being entitled "Serious business," and calling attention to the number of very serious domestic questions the solution of which is awaiting the disposal of the pending treaty.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

#### "SERIOUS BUSINESS."

[By William R. Boyd, jr., national campaign manager League to Enforce Peace.]

"A merchant in a middle western town recently said to me that the Senators will soon discover something serious is likely to happen to business unless action is had on the peace treaty. His statement recalls the old negro woman who, when told of the sudden death of her husband, exclaimed, 'My Gawd! Dere must a been sumpin serious de matter wid him.'"

"There is something seriously the matter with the whole world. No one knows it better than the American business man. He knows that the Senate of the United States is playing with fire every day it delays the ratification of the peace settlement.

"The business man knows that almost all of Europe and Asia is in a state of upheaval, evolution, and revolution. He knows that right here in America a fire is being fanned by a large, unassimilated, and un-Americanized foreign population.

#### "INDUSTRIAL RECONSTRUCTION WAITS."

"The business man knows that capital, ever timid, hesitates to pour its money into industrial reconstruction through fear of political disturbance or revolutionary changes in industrial methods. He knows that credit and currency and living costs are inflated, and that the public generally is restless and clamoring for reduced prices for necessities and all manufactured goods. He knows that operating costs and wage levels are skyrocketing and production decreasing.

"The business man knows that the country over merchants report an orgy of consumers buying luxuries, both in rural and urban sections, with a tendency to expand individual credit. He knows that the country banks, though bulging with deposits, are loaned almost to the limit of their capacity.

"The business man knows that international problems do have a far-reaching effect upon the prosperity of this Nation and the happiness of its people. Ditto, domestic problems, like the seemingly forgotten transportation situation, in which even the babes in arms of our land have a vital interest.

"The business man knows there is important work to be done by the Congress of the United States and that the Senate ought to facilitate that work by ratifying the treaty of peace now—and without amendment or destructive reservations that would require renegotiations or resubmission to another conference of nations, thus holding in abeyance the settlements growing out of the war.

#### "WHILE THE SENATE TALKS."

"Knowing these things, ought not the business man to tell the Senate what he knows in forceful and unmistakable language? And, to purloin a Wattersonian phrase, in America every man who is not a policeman or a dude—the banker, the minister, the lawyer, the doctor, the farmer—is a business man.

"While the Senate consumes precious time gas attacking parts of the treaty which it knows it can not rewrite without the consent of other signatory nations, Germany is mobilizing for war. Oh, no; not in a military sense, for the treaty will force her to beat her swords into plowshares once it gets into effect. Already Germany is 'consolidating her positions,' industrially speaking, and her horde of commercial soldiers are invading Russia and Scandinavia and all the rest of the world where she may be able to obtain passports for them. Thus, while our Senate talks, talks, talks, our chief enemy consolidates her industrial forces for teamwork to attempt to commercially Germanize the markets of the world. Now, Great Britain, France, Italy, and Belgium have ratified the settlement made at Versailles and are moving their commercial batteries into position.

#### "THE FOUR BIG FACTORS."

"Here four powerful and contributory forces are admittedly influencing readjustments and the status of our domestic and foreign commerce, to wit:

"First. The peace treaty.

"Second. The labor problem.

"Third. The money market.

"Fourth. Foreign credits and exchange.

"Business, generally, optimistically expects all four of these problems to be worked out with reasonable promptness. The war settlement contained in the peace treaty is regarded as the paramount factor in readjustments. It also has particular influence upon the third and fourth propositions above stated. Therefore, the first move to be expected is action by the Senate, as it alone has the power to remove the first disturbing factor and permit final decision on the many business commitments that are being deferred until the treaty is ratified.



## "CAPITAL, LABOR, THE PUBLIC."

"The second proposition—the labor problem—is now under discussion by the Industrial Conference, meeting in Washington upon invitation of the President. There two warring elements have been brought together in council—with representatives of the consuming public occupying the middle ground—to confer over conditions fundamental to the tranquillity and prosperity of the entire citizenship of the Nation. Business circles regard this conference as an augury of better arrangements; as an opportunity to prove that labor, capital, and the public can work with, not for, each other; a chance for them to get together and pull together during the era of commercial rivalry which we are now entering upon.

"The third proposition—the money market—is only partially dependent upon the working out of the first and second. In a degree not altogether measurable we are suffering from abnormal speculation, due in part perhaps to the fact that some elements of business are joy-riding and exceeding the speed limit. The turnover in high-priced and luxurious mercantile stocks is remarkably large and testifies how 'leaky' the dollar is, and partially explains the general demand for higher compensation for service. Large amounts of money are being diverted into highly speculative channels while credit and currency are required in large volume for crop moving and governmental and legitimate corporate financing. Despite all this, however, thanks to our admirable Federal Reserve system, there is no scarcity of money at the moment for purely commercial requirements, though the rate is high.

## "FOREIGN CREDITS AND EXCHANGE."

"The fourth proposition—foreign credits and exchange—can not be worked out definitely until after ratification of the peace treaty. Safe and definite plans must be made to facilitate the carrying on of our trade with the rest of the world. In the case of Europe and South America the exchange situation is hindering American exports, and it is imperative that an early solution be found of the method of payment for the goods we sell them. A sound system of credits must be developed and inaugurated if we are to enjoy the prosperity that follows the sale of our surplus commodities for foreign consumption. To aid in finding the solution of some of these pressing problems, business men from England, France, Italy, Belgium, and other countries are now meeting with American business men in Atlantic City, under the auspices of the Chamber of Commerce of the United States. Here the viewpoint of the occidental business world will seek common denominators by means of round-table discussion, a principle sought to be applied to the settlement of many world problems through the proposed league of nations.

## "JOHN H. PATTERSON'S VIEWS."

\*One of America's foremost and far-sighted business men is just home from an investigation of business conditions in France, England, Belgium, and Germany. He publicly reports his impressions, and, among other things, he emphatically says:

"I have just returned from a trip to Europe. I went to study business conditions. The most important thing to do to restore international business is to quickly ratify the treaty of peace and establish a league of nations.

"That business man is John H. Patterson, the president and general manager of the National Cash Register Co., which concern has ramifications throughout the commercial world. His viewpoint seems to be general among business men everywhere.

"The American business man knows the Senate ought to ratify the treaty at the earliest possible moment, and then get the Congress down to work on other pressing problems. He knows that the mind of individual Senators is decided about what each is going to finally do when the vote on the treaty is taken.

"Why, then, can not American business, big and little, from Duluth to Mobile and from Santa Barbara to Wilmington, let the Senate know that what it needs and wants is more light and less heat, more speed and less procrastination on Capitol Hill, Washington, D. C.? Concerted action on the part of the American public usually gets results, for the people's Senators understand what that means.

"Let the American business man do some quick thinking and acting. Also the American farmer, who, collectively taken, is the biggest business man of all; he should speak first and loudest."

## OIL AND GAS LANDS.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 2775) to promote the mining of coal, phosphate, oil, gas, and sodium on the public domain.

Mr. SMOOT. I move that the Senate disagree to the amendments of the House, and request a conference with the House on the disagreeing votes of the two Houses thereon, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the President pro tempore appointed Mr. SMOOT, Mr. FALL, Mr. LENROOT, Mr. MYERS, and Mr. PITTMAN conferees on the part of the Senate.

Mr. SMOOT. I ask that the bill (S. 2775) to promote the mining of coal, phosphate, oil, gas, and sodium on the public domain be printed, showing the amendments of the House.

The PRESIDENT pro tempore. Without objection, it is so ordered.

## CONTROL OF RAILROAD TRANSPORTATION—CONFERENCE REPORT.

Mr. CUMMINS. I submit a conference report on the disagreeing votes of the two Houses on the bill (S. 641) to amend section 10 of an act entitled "An act to provide for the operation of transportation systems while under Federal control, for the just compensation of their owners, and for other purposes," approved March 21, 1918. I ask that the report be printed in the Record. I hope to call it up to-morrow.

The PRESIDING OFFICER (Mr. JONES of Washington in the chair). Without objection, it will be so ordered.

The report is as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill S. 641, entitled "An act to amend section 10 of an act entitled 'An act to provide for the operation of transportation systems while under Federal control, for the just compensation of their owners, and for other purposes,' approved March 21, 1918," having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendment numbered 1.

That the Senate recede from its disagreement to the amendments of the House numbered 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, and agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 11, and agree to the same with an amendment as follows: In the proviso of said amendment after the word "made" insert the words "by him," and at the end of said amendment insert the following: "except that this proviso shall not apply to cases now pending before the Interstate Commerce Commission, which cases shall proceed to final determination under the law as it existed at the time of the passage of this act"; and the House agree to the same.

ALBERT B. CUMMINS,

ROBERT M. LA FOLLETTE,

Managers on the part of the Senate.

JOHN J. ESCH,

E. L. HAMILTON,

Managers on the part of the House.

## TREATY OF PEACE WITH GERMANY.

The Senate, as in Committee of the Whole and in open executive session, resumed the consideration of the treaty of peace with Germany.

Mr. THOMAS. Mr. President—

Mr. LA FOLLETTE. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Gronna	La Follette	Sheppard
Ball	Hale	Lenroot	Sherman
Brandegee	Harris	Lodge	Smith, Ariz.
Capper	Harrison	McCumber	Smith, Ga.
Chamberlain	Henderson	McLean	Smith, Md.
Colt	Hitchcock	McNary	Smoot
Culberson	Johnson, S. Dak.	Moses	Spencer
Cummins	Jones, N. Mex.	Nelson	Sterling
Curtis	Jones, Wash.	Newberry	Swanson
Dial	Kellogg	Norris	Thomas
Dillingham	Kendrick	Nugent	Townsend
Elkins	Kenyon	Owen	Trammell
Fall	Keyes	Page	Walsh, Mass.
France	King	Phipps	Walsh, Mont.
Gay	Kirby	Pomerene	Williams
Gerry	Knox	Robinson	Wolcott

Mr. CURTIS. I was requested by the chairman of the Committee on Military Affairs to announce that that committee is holding a joint meeting with the Committee on Military Affairs of the House this morning and that a number of Senators on that committee are absent on that account.

Mr. GERRY. The senior Senator from Kentucky [Mr. BECKHAM], the Senator from North Carolina [Mr. OVERMAN], and the junior Senator from Kentucky [Mr. STANLEY] are detained

on public business. The Senator from Oklahoma [Mr. GORE], the Senator from California [Mr. PHELAN], the Senator from Nevada [Mr. PITTMAN], and the Senator from Tennessee [Mr. SHIELDS] are absent on official business. The Senator from North Carolina [Mr. SIMMONS] and the Senator from Missouri [Mr. REED] are detained on account of illness. The Senator from South Carolina [Mr. SMITH] is absent on account of illness in his family.

Mr. GAY. The senior Senator from Louisiana [Mr. RANSDELL] is detained from the Senate on official business.

The PRESIDENT pro tempore. Sixty-three Senators have answered to their names. There is a quorum present.

Mr. THOMAS resumed and concluded the speech begun by him yesterday. The entire speech is as follows:

*Thursday, October 30, 1919.*

Mr. President, on the 22d of August last I submitted some observations to the Senate upon the provisions of Part XIII of the proposed treaty. I had previously devoted considerable time and thought to the 40 articles constituting that portion of the treaty, and expressed some surprise that it had not been discussed in the Senate and by the press. I then regarded it as in many respects the most important portion of the treaty. Since then I have reexamined it, giving to the task all the time which my other duties permitted, and prompted by the determination to comprehend, if possible, the full scope and extent of its provisions.

Yesterday I gave close attention to the speech of the Senator from Wisconsin [Mr. LA FOLLETTE] upon this part of the treaty. He has reached a conclusion identical with my own, but bases it upon an entirely different line of reasoning. Stated concretely, the Senator from Wisconsin criticizes Part XIII because it does not protect and safeguard American labor. But he also challenges the constitutionality of some of the articles, and in that respect I am disposed to accept his contention. Without repeating what I said last August, I shall consider Part XIII as an integer of the league and its relation to the Government and people of the United States, together with certain changes by way of amendment already in contemplation. For I am persuaded that Part XIII as now constructed contains the framework of a supernational, armed with certain conditional powers of administration, both executive, legislative, and judicial, including the power to summon a member upon the complaint of any industrial organization, of the governing body, or of any delegate to the general conference, who may charge it with failure to enforce its covenants to the bar of its commissions of inquiry and pass judgment upon it.

Treaties between nations are stated by a competent authority to be "unconstrained acts of independent powers placing them under an obligation to do something which is not wrong." As understood by writers upon international law, a treaty constitutes a pact or agreement between two or more nations acting in their sovereign capacity and competent to make and observe the covenant.

The pending treaty purports to be one of 27 nations with Germany, but it as well includes a segment or class of people common to all of them, and that the wage-earning class. These are lifted from the common mass of mankind and given a distinct individuality in the treaty, which confers upon them certain rights and privileges in recognition of what is said to be their peculiar need, and of course in the interests of a permanent universal peace. That is the remarkable feature of Part XIII; one hitherto unknown in the treaty agreements negotiated heretofore between sovereign nations.

Part XIII was not drafted by the Versailles congress. The Senator from Wisconsin told us yesterday of its origin. It was drafted by a commission, representing several nations, not exceeding 9 or 10, and consisting in the aggregate of about 15 delegates. These delegates were the representatives of, and identified with, the class to which Part XIII relates. I think it may be assumed that men empowered to draft an agreement in their own interest will carefully and vigilantly safeguard that interest, whether the agreement be between individuals or between nations. That is human nature. I am not criticizing. I am commending it, but I emphasize the fact that in the preparation of Part XIII the principal thing in view was not permanent peace among the nations, not the welfare of all mankind, except as that welfare might be common to the class for whose benefit Part XIII was specially designed.

Mr. LA FOLLETTE. Mr. President—

The PRESIDING OFFICER (Mr. BRANDEGEE in the chair). Does the Senator from Colorado yield to the Senator from Wisconsin?

Mr. THOMAS. I yield.

Mr. LA FOLLETTE. Will the Senator permit me in that connection to call attention to the fact that the five great nations, constituting the power of decision in the peace conference, were represented in this legislative commission of which he is now speaking?

Mr. THOMAS. Yes; that is, the United States, the British Empire, France, Italy, and Japan.

Mr. LA FOLLETTE. Yes; and of course they held the controlling power on the commission.

Mr. THOMAS. They were the controlling power.

Mr. LA FOLLETTE. They were represented by two delegates each to whom were added—

Mr. THOMAS. To whom were added the representatives of four other nations.

Mr. LA FOLLETTE. To whom were added the representatives of four other nations.

Mr. THOMAS. Belgium, represented by two delegates; Cuba, Poland, and the Czecho-Slovak Republic, represented by one delegate each. That is correct.

Mr. OWEN. Was it a unanimous report?

Mr. THOMAS. I think the report was unanimous. It would, perhaps, be more correct to say that the report was made by the president and secretary by the direction of the commission.

Upon the return of Mr. Gompers to America he stated, among other things, in discussing Part XIII, that "the labor articles of the treaty were drawn by labor men for labor." That is a very frank and clear statement of the fact. It does credit to Mr. Gompers, who gives the plain, unvarnished truth to the people. A treaty or a part of a treaty drawn by a certain class of men for themselves, whatever their occupation, is not in essence intended for the peace of the world or the welfare of mankind, but it is intended for the benefit of that selected portion thereof authorized to negotiate articles for their peculiar interest. Indeed, Part XIII begins and concludes with recitals supporting this contention. The preamble reads:

#### Section I.

##### ORGANISATION OF LABOUR.

Whereas the league of nations has for its object the establishment of universal peace, and such a peace can be established only if it is based upon social justice;

And whereas conditions of labour exist involving such injustice, hardship, and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperilled; and an improvement of those conditions is urgently required; as, for example—

And so forth.

Turning now to the concluding article in this part of the treaty, I read:

#### Article 427.

The high contracting parties, recognising that the well-being, physical, moral, and intellectual, of industrial wage earners is of supreme international importance, have framed, in order to further this great end, the permanent machinery provided for in Section I and associated with that of the league of nations.

These gentlemen regarded that section of humankind which they represented and were identified as needing special international regulations for their welfare because their "well-being, physical, moral, and intellectual," was "of supreme international importance"; and when we ratify this treaty we commit the United States to an official and irrevocable indorsement and recognition of that recital. So far as it goes, the recital may be true; but I contend that the well-being of the industrial wage earner, either in the United States or elsewhere, is of no more "supreme international importance" than is the welfare of the farmers, the intellectual wage earners, the merchants, and the manufacturers of the world. All are of equal importance in all well-regulated and law-abiding communities; and I question the propriety or the justice of incorporating such a distinction in a treaty, however important it may be for the peace of the world, for it unquestionably confers upon the particular class thus distinguished the right not only to insist but to assume and to base the assumption upon an international covenant that their welfare is of an importance superior to and beyond that of all other classes of men and therefore entitled to special consideration.

I am unable to harmonize such a declaration with the general doctrine of democracy which is founded upon the principle of equality and dedicated to the principle that the welfare of all men is the first duty of governments. If this war was fought "to make the world safe for democracy"—an assertion which I have sometimes questioned—the end for which our blood and treasure were expended in unstinted measure must be ignored, if we are to supplement our victory by crystallizing into a treaty of peace the official recital that one part of the people of the world is of supreme international importance as compared with all other parts thereof.



If in place of the words "industrial wage earners," in section 427, we inserted the word "farmers," the assertion of the sentence would be equally true; and when we consider that in the United States there are 4,000,000 unionized wage earners and 13,800,000 farmers, numerically speaking, it would be more true. We might substitute for the words "industrial wage earners" those which are descriptive of any other class, and it would be true; but if we did, we would be accused of class discrimination and warned that its elevation by treaty covenant instead of securing would inevitably disturb the future peace of the world. Let us not forget that these recitals are a part of the treaty and part of the league covenant. Once ratified they may stand for all time as the solemn recognition by the world of an international class distinction, which can not well be recalled, and which will sooner or later vex the peace of the world.

The basis and justification for Part XIII, as stated in its beginning and at its close, emphasize a fundamental objection to its integrity.

Mr. LA FOLLETTE. Mr. President—

The PRESIDING OFFICER. Does the Senator from Colorado yield to the Senator from Wisconsin?

Mr. THOMAS. I yield.

Mr. LA FOLLETTE. Does not the Senator from Colorado see a relationship between the recitals which he is now criticizing and the beginning of the second paragraph of section 1 of Part XIII? Ought not the two really to be read together? Does not the Senator think that the words in article 427, "Recognizing that the well-being, physical, moral, and intellectual, of industrial wage earners is of supreme international importance," ought to be taken into account and construed with the recital in the first two lines of the second paragraph of section 1 of Part XIII, where it is stated, "And whereas conditions of labor exist"—

Mr. THOMAS. I did read them together, Mr. President.

Mr. LA FOLLETTE. I know the Senator did; but he is directing his criticism particularly against the language of article 427 and has departed from and quite lost sight, apparently, of the recitals in section 1, where it is said, recognizing an existing condition, which I think will not be disputed by the Senator from Colorado:

And whereas conditions of labor exist involving such injustice, hardship, and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperiled.

Therefore, does it not follow logically that a better condition is necessary; that "the well-being, physical, moral, and intellectual, of industrial wage earners is of supreme international importance," taking into account the recitals made in section 1?

Mr. THOMAS. Mr. President, to that suggestion I have two replies. The first is that the better condition can be obtained without a species of international class legislation. Moreover, assuming the truth of these recitals, the structure of Part XIII is such that if put into full operation it will not better but reverse those conditions. The rest of mankind will then more likely be involved in these conditions of injustice, hardship, privation, and so forth, which now are said to imperil the peace of the world because imposed upon labor. The other answer is that the conditions mentioned, while existing in many places in the world, is not peculiar to the wage earner; and I shall contend hereafter that Part XIII is designed for the organized wage earners of the world only and not for the vast body of wage earners outside the pale.

[At this point Mr. THOMAS yielded to Mr. PENROSE, who suggested the absence of a quorum, and the roll was called.]

Mr. THOMAS. Mr. President, whatever the final action of the United States may be with regard to this treaty, whether Part XIII remains a part of it or not, the conditions recited in section 1 of Part XIII, however deplorable in fact, will not be effaced. They may be mitigated; they may be changed; but, in my judgment, they will be accentuated, and in the United States particularly; for it is as true to-day as at the dawn of creation that an equalizing process can only be made effective downward. You may raze the mountain to the plain; you can not elevate the plain to the summit of the Sierras. The surface of the ocean is the standard from which all heights and depths are measured, and the general mass of mankind must always furnish the standard for any leveling process designed to secure equality.

I may say, in passing, that the expressed purpose of Part XIII to produce strict uniformity in conditions of labor throughout the world is impossible and would be grotesque if it were not pathetic. It may be done through years of suffering, of oppression, and of agony, by processes with which Russia has become unhappily familiar, by the decimation of the human race and the return to primitive conditions, but when it is over the level will be that of China and India, not that of the United States.

In his great work upon "Liberty and Democracy," Mr. Lecky has demonstrated with the precision of a problem in Euclid

that democracy and liberty are inconsistent, but that democracy and equality are synonymous. Liberty consists in the right to exercise every power with which a man has been endowed, either by nature or by acquisition, of course in recognition of and limited by the exercise of a similar right in every other citizen. That does not produce equality. It is the antithesis of equality; it is liberty, which does not consist with pure democracy. It is a remarkable fact that in all of the writings, speeches, and public documents of Abraham Lincoln you can not find the word "democracy" except as descriptive of a political party in America.

When Mr. Jefferson founded the Democratic Party, he properly christened it "the Democratic Republican Party"—a democracy governed through a republic, a representative government; and it was that to which Mr. Lincoln devoted his life, and in whose preservation he suffered martyrdom. We may pile treaty upon treaty, and convention upon convention, in the vain task of establishing strict uniformity in labor conditions in the world; but in the end we shall confront the fact that in their practical operation the high standards reached in advanced countries like the United States and Canada must give way to those lower ones more universally prevailing or the end will never be attained.

Moreover, Mr. President, the hard conditions of labor, said to involve injustice, hardship, and privation to wage earners, are just as common to other classes and conditions of men, and particularly in this country; as the Senator from Utah [Mr. SMOOT] suggests, much more common with some of the others.

If Part XIII assumed to separate the great farming class of the world from the rest of mankind, and give them international rights of conditional legislation and power to enforce their covenants, labor would justly complain. Indeed, the effort was made at this congress to include the farming elements of the world in the new dispensation. That was vigorously contended for by the delegates from France and from Italy, but unsuccessfully so. If the manufacturing class were so selected and favored, all other conditions of men would protest. So of any other class except the wage earners. I have been amazed, Mr. President, that this differentiation between millions of human beings from all other human beings in a great State paper, and their endowment with privileges and rights of legislation and of recognition not accorded to all, has passed almost unnoticed in the Senate or by the public, while months have been devoted to the consideration of Part I of the league, although Part XIII is another and an equally essential portion of it.

Mr. GORE. Mr. President, I desire to ask the Senator if he knows what countries objected to this particular recognition of the farmers to which he has just referred?

Mr. THOMAS. I do not remember the report clearly, but my recollection is that the others objected.

Mr. GORE. All of them?

Mr. THOMAS. Yes. I will be glad to furnish the Senator with a copy of that report, if he would like it.

Mr. GORE. I would thank the Senator for it.

Mr. PENROSE. Does the Senator realize that this provision was considered and favorably passed on without a full realization of what it meant?

Mr. THOMAS. Mr. President, I am satisfied that those who drafted Part XIII knew well what it meant.

Mr. PENROSE. I have no doubt that some of the conspirators did.

Mr. THOMAS. But I can not understand its adoption by the congress at Versailles in its present form upon any rational hypothesis.

Mr. PENROSE. The reason why I ask, Mr. President, is that I think it ought to be realized fully by the Senate, for instance, that this provision was indorsed at a meeting at Atlantic City by the American Federation of Labor. Since then several of the heads of different trade-unions have called on me to tell me that the convention did not understand the full effect of this part of the treaty, and repudiated it, asking me to vote against it.

Mr. THOMAS. Yes; I know, Mr. President, that some sections of organized labor have become impressed, and I am glad to know it, with a realizing sense of the dangers involving them in this part of the treaty. The farmers are against it, so far as I have heard from them, and well they should be. The seamen are against it.

Mr. PENROSE. I believe, Mr. President, that if it was understood there would not be a trade-union in the United States that would not repudiate this article.

Mr. THOMAS. Mr. President, I hope to demonstrate before I resume my seat that one or two of these articles are plainly and palpably unconstitutional, and that we can not vote to accept Part XIII consistently with our oaths of office.



Mr. McCUMBER. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Colorado yield to the Senator from North Dakota?

Mr. THOMAS. I yield.

Mr. McCUMBER. The Senator will recall that the Committee on Foreign Relations, in adopting a number of reservations which are to go into and become a part of the treaty, adopted No. 4.

Mr. THOMAS. Yes; I am aware of that.

Mr. McCUMBER. And Part IV very briefly states that—

The United States reserves to itself exclusively the right to decide what questions are within its domestic jurisdiction and declares that all domestic and political questions relating wholly or in part to its internal affairs, including immigration, labor, coastwise traffic, the tariff, commerce, the suppression of traffic in women and children and in opium and other dangerous drugs, and all other domestic questions, are solely within the jurisdiction of the United States and are not under this treaty to be submitted in any way either to arbitration or to the consideration of the council or of the assembly of the league of nations, or any agency thereof, or to the decision or recommendation of any other power.

Mr. THOMAS. I am familiar with that reservation.

Mr. McCUMBER. The only virtue I see in this entire labor provision is its impotency, that it is unworkable; and, conceding that, does not the Senator believe that if this reservation is adopted it will really dispose of the whole matter?

Mr. THOMAS. It will be much better than nothing, Mr. President. I have studied that reservation carefully, and I have prepared and introduced four of my own. But I am not at all satisfied that they go far enough or that they can go sufficiently far to cure many of the objections that I see to it. Nor do I regard this part of the treaty as impotent.

Mr. McCUMBER. Certainly the Senator must agree that everything which pertains to labor is purely a domestic question; and doubly so in this country, where it is domestic as to the Federal authorities and still more so as to the State authorities.

Mr. THOMAS. That is very true.

Mr. McCUMBER. And the question can not be submitted either under our Constitution or, if this is adopted, under this provision to anybody else.

Mr. THOMAS. That is very true, Mr. President. But there is a practical side to this Part XIII which no reservation can reach. I refer to the expense of its administration. I believe I can show to the satisfaction of the Senate, before I am through, that the administration of Part XIII will cost fully as much as the administration of our own Government and require almost as large a staff of officials, servants, and employees as we use in our civil administration. No reservation has reached that feature, and I do not think it can be safeguarded in any other way than in rejecting the proposition in toto. Of course, I shall vote for the reservation, if this part remains in the treaty, and I hope that it will have the effect, in practical operation, that the Senator from North Dakota [Mr. McCUMBER], in whose judgment I have every confidence, hopes for.

Mr. KING. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Colorado yield to the Senator from Utah?

Mr. THOMAS. I yield.

Mr. KING. I heard only a portion of the suggestion of the Senator from North Dakota [Mr. McCUMBER]; but, with the permission of the Senator from Colorado, I wish to make this suggestion: If Part XIII remains, the duty unquestionably would rest upon this Nation to do its part to carry out its terms, to appoint the delegates, and leave somebody to challenge the constitutionality of the action of this Government. Certainly the Senator does not take the position that if we adopt the treaty with Part XIII in we would refrain from doing anything because of the reservation of control over domestic affairs. We would attempt to reconcile a reservation with respect to domestic affairs with some sort of action taken under the treaty, and there would constantly be a conflict between the legislation which we enacted, or the steps which the Government took, and the contention that we were infringing on the Constitution and were violating the terms of the peace treaty because we were committing to this international tribunal matters that were purely domestic.

Mr. McCUMBER. With the permission of the Senator from Colorado, I will call the attention of the Senator from Utah to the next to the last paragraph of article 405, which paragraph makes the decisions of this labor convention advisory only, and especially provides that it shall be construed only in that light. Taking that into consideration, and in connection with a reservation that I believe will be adopted, I can not see that it will have any other influence than a mere advice or suggestion, which, by the terms of the treaty, must be treated by this country only as a suggestion.

Mr. THOMAS. Mr. President, the interchange of ideas between the Senator from Utah and the Senator from North Dakota anticipates one feature of the argument which I have outlined, and which I will reach later.

Let me say, however, that this introductory statement leads us to the proposition that Part XIII creates a supernational composed of a particular class of people in the world and practically confers upon that class the authority to legislate conditionally and enforce its covenants after acceptance by members of the league. In other words, a scheme for the permanent peace of the world is linked with a covenant recognizing and exalting a class common to all the nations, upon the hypothesis that it is essential to that peace. That is what the treaty of Vienna did for autocracy and for the same reason. Where is autocracy to-day?

[At this point Mr. THOMAS yielded the floor for the day.]

Friday, October 31 (legislative day of October 30), 1919.

Mr. THOMAS. Mr. President, the international organization provided by Part XIII is to be framed by its own representatives in its own interest and then made permanent. The executive council and the assembly under Part I of the treaty are composed of representatives chosen by the member nations, and, while there is no limitation upon their tenure of office, it is presumably subject to the control of the appointing power.

In the framework of the organization under Part XIII the general conference is selected by the member nations in the proportion of two representatives of the Governments, one representative of employees, and one representative of employers. These are appointed also without limitation as to time of service, and, like the members of the executive council and the assembly under Part I, they are presumably under the control of the appointing authority. But in their selection there is this difference, that the employer delegate to the conference and the employee delegate to the conference must be chosen in agreement with industrial organizations which are most representative of these two classes of people. These delegates select the members of the governing body by the choice of eight delegates representing the principal manufacturing or industrial nations, the remaining delegates to the conference selecting four others. The remaining twelve are elected by the delegates to the general conference representing employers and employees, respectively, each choosing six representing their respective pursuits.

They hold office for three years and appoint the director who is an executive and administrative official, having the power of appointment and selection of all subordinate officials and employees of the organization.

Now, at first blush, the composition of the general conference would indicate an equality of representation between the members, on the one hand, and two classes upon the other, to wit, the employers and the wage earners. That apportionment was bitterly opposed by some labor organizations and by some of the members of the drafting commission because unfair and unjust to the wage-earner class. It was not, therefore, an arrangement which satisfied all representatives in that body, but the prospect of controlling the member delegates induced its acceptance. In his report to the Versailles conference, Mr. Gompers, referring to this feature of Part XIII, said:

Moreover, it was likely, especially in the future, that the Government delegates would vote more often with the workers than against them. If this were so, it was obviously to the advantage of the latter that the Government should have two votes instead of one, as it would render it easier for them to obtain a two-thirds majority, which under the Franco-American proposal would be practically impossible if the employers voted in a body against them.

This arrangement was accepted then because of the probability that the wage-earning class would be more likely than the employers to secure the cooperation or control of the delegates representing the member nations; and I think that this expectation will be realized, particularly in countries like France, Spain, Italy, and Germany, which latter has just been given representation in the conference, and other nations where the modern political labor movement is either in the ascendant or possesses a predominant influence in political circles.

Hence we may agree with Mr. Gompers that in practical operation the delegates to the general conference will be dominated by the interests subserved by Part XIII, and that they will sooner or later become the distinctive controlling feature of the international labor organization.

We have, therefore, as the official organization of the league of nations, first, an executive council consisting of the principal allied and associated powers and four other members to be chosen as provided by Part I; second, the assembly of the league of nations; and third, a permanent, powerful organization created in the interest of and controlled by a specifically designated section of the people of the world.

This is said to be necessary to a permanent and enduring peace. If so, it can be defended; but I affirm that there can



be no enduring peace in a world whose people are subdivided by a treaty expressly distinguishing and discriminating some of them from the masses of mankind and endowing them with power to legislate in their own behalf.

The fundamental vice of autocracy, of oligarchy, of plutocracy is their domination by certain sections of the people; classes jealous of their own prerogatives and sternly opposed to their extension to others; governments founded upon injustice and inequality, therefore leading inevitably to revolution and insurrection. With the example of the world's history confronting the Versailles congress and with full knowledge of the eternal fact that governmental inequalities between the people produce discord and difficulty, it has deliberately crystallized into the proposed treaty that unfortunate distinction; and the result will be identically that which would have followed if any other class of people had been selected for its bestowal.

There can be no harmony between modern democracy and class distinctions in political life. I care not whether the discrimination falls in one or in another direction; it is the principle which is vicious, and through its operation peace and happiness can not endure.

Mr. HITCHCOCK. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Colorado yield to the Senator from Nebraska?

Mr. THOMAS. I yield.

Mr. HITCHCOCK. The Senator speaks of an organized effort in the interest of the laboring classes as a class distinction. Well, so it may be; but is it not a fact that every civilized government has found it necessary to legislate concerning the laboring classes in its own country? Has it not found that it was necessary to protect them from oppression, to protect them from certain dangers from which they were not able to protect themselves? The Congress has done it, every one of our State legislatures has done it, and I think it has been done in every civilized country, because, from the very nature of those who belong to the laboring classes, they have not been considered in a position to protect themselves. Out of that there has grown quite a distinction between countries as to labor conditions. We have found in this country, for instance, after having eliminated pauper labor, the claim made that pauper labor from other countries was coming into competition with our labor, because of goods imported into this country that cost a great deal less to manufacture than goods manufactured here.

Now, is it not possible for the Senator to see that if labor all over the world could in a measure be equalized, if child labor could be restricted, if the hours of labor could be equalized, that cause of friction between different countries might be eliminated; and would it not be a reasonable thing, if nations are entering into this arrangement for the good of mankind, to have these international conferences for the purpose of equalizing labor all over the world and putting a stop to this inequality of conditions and the disturbance of commerce as a result?

Mr. THOMAS. Mr. President, it is true that in every enlightened modern nation laws have been enacted for the protection of the weak and the unfortunate. They have also been enacted for the welfare of what is generally termed the laboring class. They have also been enacted favoring farmers and manufacturers. It is the duty of every government to protect, by equitable laws, those who can not protect themselves. No man questions the wisdom or the necessity of such legislation. It would also be a consummation of great benefit to humankind if an equality of conditions could be attained as to the wage earner all over the world. Such a situation would be as near an approach to the millennium, provided it eliminated discontent, as any human situation ever can be; but no scheme of man is sufficiently omniscient and powerful to accomplish such a benign result. I discussed that feature of world conditions yesterday somewhat briefly. I then sought to maintain the proposition that inequalities will always exist until some leveling process downward can be secured and acted upon which will prove satisfactory to mankind.

Mr. President, legislation by governments for the welfare and protection of the helpless and dependent should, and probably will, continue to be enacted, whatever the fate of this treaty; and such enactments, I trust, will be all sufficient, as in the United States they have proven more than sufficient, to reduce inequalities and extend protection. The analogy which the Senator suggests, however, does not exist. If in America the people were to establish a tribunal composed of and representing the wage earners, the farmers, or any other distinctive class, endowing them with the power to make their own legislative recommendations, to carry on their own governmental equipment, function governmentally side by side with that of the United States, and possessing the added power to cite the latter before its tribunals upon complaint made against it

regarding its particular legislation, that would furnish some analogy to the edifice which is to be erected upon the foundations of Part XIII.

Now, every man of common sense knows that such an arrangement would prove inoperative. There can be no such thing as a dual government, equal in authority and in jurisdiction, anywhere. One or the other must become supreme, and in the interval between their establishment and the supremacy of the stronger there must be disorder, difference, conflict, and possible bloodshed.

It is not, therefore, the need suggested by the Senator from Nebraska that I am discussing, but the method by which it is proposed, in a world treaty, to accomplish that need; and that method seems to me so irreconcilable with all our notions of government, with all our experiences in the activities of a great democracy, and with every object sought to be subserved by the ratification of this treaty, that I am unable to give my assent to it.

Mr. President, the officials of the international labor office and the general labor conference and I suppose the other high officials of the organization will enjoy diplomatic immunity under article 7 of Part I, which I presume will extend to their households and subordinates. I have no objection to that as a general proposition; but the immediate application of the principle to affairs now existing in Washington furnishes an object lesson of the extent to which it can be carried, because here in the city of Washington are delegates to this first international labor conference from Germany and from Austria, with whom we are technically yet at war, and who last night, by an overwhelming vote, with but one dissenting, were admitted to full membership. They may be, and probably are, entirely free from any other purpose than that of serving their respective countries in this conference; but it is a startling fact that to-day in the city of Washington are these delegates, enjoying diplomatic immunity, from the Governments of Germany and Austria, with the peace treaty yet to be ratified. It is a modern instance of the lion and the lamb lying down together; it may be a precedent which time will demonstrate to be entirely innocuous; but, frankly, it is a sinister situation that to me seems most disturbing.

The disturbing feature is that the first conference under Part XIII, called in Washington before the treaty has been ratified, wholly disregards the conditions of membership imposed on the delegations of that organization by the express terms of Part XIII. These delegates must be confined to the members of the league, each being entitled to four, with their advisers. There is no thought of admitting Germany or Austria to the league in the immediate future, unless the announcements made heretofore by the Versailles conference are unimportant and meaningless. But these countries have had no difficulty whatever, treaty or no treaty, in identifying themselves with an international body to be established by it, although it prescribes the qualifications of delegates to that body to which they can not possibly conform. Mr. President, the labor conference now in session is not entirely responsible for this sudden, summary admission of delegates from enemy countries to its membership.

They are merely acting upon the recommendation of the Versailles conference, whose president and spokesman is Premier Clemenceau. On the 22d day of last May Count Brockdorff-Rantzau, in the name of the German delegation, sent a communication to the Congress protesting against the framework of Part XIII. I shall have occasion to refer to that hereafter. On the 31st of May Premier Clemenceau replied to that letter, and answering one of the objections said:

4. The allied and associated Governments have already decided to accept the idea of early admission of German representatives and to ask the Washington conference to admit them immediately thereafter to full membership and rights in respect to the industrial labor organization and the governing body attached thereto.

We have had recommended to us for ratification the framework of a treaty, supposedly the official product and the complete official product of the treaty-making powers at Versailles, which creates a body known as the general labor conference, which limits delegations to it and prescribes their qualifications. But a month and a half before it reached us that identical congress officially recommended the disregard of these qualifications by accepting representatives from countries which are not and for a long time can not become members of the league. I am unable, Mr. President, to reconcile this advice—and it is very difficult to comprehend to whom the advice was given, as there was no organization to receive it—with the express terms of a national compact, and particularly when that advice recommends the inclusion in the conference of the delegates of the two powers with which we are still at war. Here is an inconsistency which requires a higher intellect than mine to reconcile.

The press also announces that this conference, now in session, or some delegate to it, has recommended the inclusion of dele-



gates from Mexico. Why not? Mexico, a disorganized country, is at least a friendly country, politically speaking. Her delegation should be more welcome than those of Germany and Austria; and if Mexico, why not every other nation on the earth, whether they be invited to membership in the league of nations or not?

Mr. TOWNSEND. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Colorado yield to the Senator from Michigan?

Mr. THOMAS. I yield.

Mr. TOWNSEND. Does the Senator understand that the conference which is now being held here in Washington, to which the Senator refers, is called and held by virtue of the provisions of the league covenant?

Mr. THOMAS. Yes; ostensibly so.

Mr. TOWNSEND. Who called it?

Mr. THOMAS. It is fixed by the recitals of Part XIII.

Some time ago the Department of Labor, through the President, called the attention of Congress to the probable convening of this body before final action was taken by the Senate upon the treaty, and requested special authority to invite these delegations here notwithstanding, and that authority was given.

Mr. BRANDEGEE. Mr. President, I will state to the Senator that the annex provides, under article 426, that—

The Government of the United States of America is requested to convene the conference.

Mr. THOMAS. Of course; but the manner of its convening was, as I have said, by this resolution of the Congress conferring special authority in advance of final action upon the treaty. I am not prepared to say that the invitation was extended to Germany and to Austria, although it must have been, else their delegations would not have been selected and admitted. We do not know how they were selected. There may be two members representing the Government, one representing the employer class and one the wage earners.

Mr. MOSES. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Colorado yield to the Senator from New Hampshire?

Mr. THOMAS. In just a moment. On the other hand, they may have been selected upon some other basis, which, under the circumstances, would be quite as lawful as though the provisions of the treaty had been complied with. Now, I yield to the Senator from New Hampshire.

Mr. MOSES. The Senator must be aware of the fact that it is easy to make inquiry as to whether invitations were sent out by this Government to the Governments of Austria and Germany to send official representatives from those countries to this conference.

Mr. THOMAS. Undoubtedly; but the outstanding fact is that they are here, that they have been admitted, and that they have all the qualifications and powers of delegates to that conference that will be bestowed upon member nations when this treaty is ratified.

Mr. McCUMBER. Mr. President—

Mr. THOMAS. I yield to the Senator.

Mr. McCUMBER. Does the Senator see either any inconsistency or any impropriety, considering the purposes of Part XIII, in inviting the German and Austrian delegates to participate?

Mr. THOMAS. Yes; I do.

Mr. McCUMBER. The purpose of Part XIII, as I read it, is to equalize labor and labor conditions throughout the world, and inasmuch as the second object, which might be included under the second proposition, is to reduce the number of working hours throughout the world, and thereby reduce the output of labor, would it not be quite proper that they should hold Germany and Austria to the same conditions of six or eight hours, in order that the other nations of the world might be able to compete in their products? Is not that one of the purposes? I do not agree with their purposes at all, but is not that the purpose of Part XIII?

Mr. THOMAS. Mr. President, at present I am not concerned with the purpose but with the abrogation of an important article of the treaty. I will refer later, before I take my seat, to some of the articles which comprehend a part of the purpose. But I contend there is no reason which would exclude Germany and Austria from membership in Part I of the league of nations that does not exclude them from membership in Part XIII. They should either be excluded entirely or they should be required to come in and enjoy all of the privileges and assume all of the responsibilities of the league as a whole. We must not forget that the two together comprise the league of nations; not one of them, but both. It becomes a complete entity only by the functioning of the executive council, the secretariat, the assembly, the general labor conference, the governing body, and the director. To admit our enemies to participate in two of these bodies and exclude them from the other two is

a self-evident contradiction, and that regardless of the purpose to be subserved by the respective branches of this quadrilateral creation.

Mr. KING. Mr. President, will the Senator yield?

Mr. THOMAS. Certainly.

Mr. KING. I think the Senator ought to suggest at this point that if these delegates possess such unlimited power as that now, in defiance of the terms of the treaty, and admit persons to participation who have no right under the treaty, it is a prophecy of what this organization may grow into in the future. It may seek the assumption of governmental powers far beyond that which is contemplated by the terms of the treaty, and it may admit members ad infinitum from various Governments of the world and various organizations until it may become a veritable imperium in imperio.

Mr. THOMAS. I shall refer to that later on, Mr. President.

Mr. KING. I want to suggest, if the Senator will pardon me, one thought in connection with the suggestion of the Senator from North Dakota [Mr. McCUMBER]. If this provision of the treaty contemplates the diminution of production or the reduction of production, it ought to be a very strong argument against the adoption of this portion of the treaty.

Mr. McCUMBER. If the Senator from Colorado will allow me, does the Senator from Utah doubt for a moment that that is one of its purposes? Does the Senator doubt for a moment that one of its purposes is to decrease the hours of labor throughout the great manufacturing world and thereby decrease labor's output?

Mr. KING. Probably that is the thought in the minds of some who are proponents of the plan; yet I can not conceive that the representatives of labor would be desirous of committing suicide and of working irreparable damage and injury to the entire world.

Mr. THOMAS. In this connection, Mr. President, it may be well to read into the Record article 387, which is the first article of chapter 1, and which provides for the permanent organization of this international labor body. It recites that—

The original members of the league of nations shall be the original members of this organization, and hereafter membership of the league of nations shall carry with it membership of the said organization.

Of course, the converse of the proposition is equally obvious: There can be no representation without such membership.

Mr. President, I have very hastily and imperfectly sketched some of the consequences which may flow from the inclusion in this conference of the delegates from these enemy countries. The action of the conference, though ultra vires, seems to have the sanction of the Versailles conference.

Mr. MOSES. Mr. President—

The PRESIDING OFFICER (Mr. Jones of Washington in the chair). Does the Senator from Colorado yield to the Senator from New Hampshire?

Mr. THOMAS. I will in just a moment, if the Senator will pardon me.

The members from Germany may hold the balance of power in the conference and so determine its action. The United States has no representation in that conference, because it has not yet ratified the treaty; hence the inclusion in the conference of these outside delegations is done by those who have been commissioned to that conference from other nations, and they, therefore, have a greater authority and voting power, relatively speaking, than would otherwise be the case. Germany, though excluded from the first 26 articles of the treaty, may nevertheless enjoy the prerogatives of one of those articles and of the 41 articles of Part XIII, and Germany may, also, be one of the members of chief industrial importance from whose delegation one member of the governing body may be selected. I now yield to the Senator from New Hampshire.

Mr. MOSES. Mr. President, I wish to ask the Senator if he intends, before concluding his comments upon this part of the treaty, to advert once more to the suggestion of the Senator from North Dakota [Mr. McCUMBER] that the underlying and fundamental purpose of Part XIII is to bring about a general, universal, and uniform reduction in the hours of labor, with its consequent effect upon productivity, and if that be the case may I indicate to the Senator another of the purposes of the treaty, inasmuch as the great powers of the reparations commission will be directed toward the speeding up of German productivity in order that Germany may be able to meet the extraordinary demands which have been laid upon her under the terms of the powers granted to the reparations commission?

Mr. THOMAS. I can not enter into the discussion of that phase of Part XIII at this time, although its importance is obvious.



In the speech which I delivered upon this subject on August 22, I attempted to analyze a number of the articles composing Part XIII. I shall not repeat that analysis, but rather attempt to supplement it by considering certain other articles which were then barely referred to and which I have since had occasion to examine at greater length.

I come to a consideration, therefore, of certain specific articles in this part of the treaty, because they illustrate, as nothing else can, the character of the proposed organization and the consequences, financial and otherwise, to the United States when they become practically operative.

Article 399 may be called the financial portion of Part XIII. I will read it:

Each of the members will pay the traveling and subsistence expenses of its delegates and their advisers and of its representatives attending the meetings of the conference or governing body, as the case may be.

All the other expenses of the international labor office and of the meetings of the conference or governing body shall be paid to the director by the secretary general of the league of nations out of the general funds of the league.

All the other expenses shall be paid to the director general by the secretary general of the league of nations out of the general funds of the league, and, of course, all funds must be furnished by the members of the league, doubtless in proportion to their resources. If that be so, the contribution of the United States to this fund will necessarily exceed, and very largely exceed, that of any other nation and perhaps of all the smaller nations combined.

It is well to consider what the expense of the assumption of any new enterprise may be, whether that enterprise be personal or national. There are many things which men would like to do and many duties which nations would like to assume, but which are not undertaken because of the enormous burden of expenditure essential to their accomplishment. I said yesterday, and I repeat, that once this international labor office is established under the treaty and equips itself for the performance of the activities which are imposed upon it, the employees essential to the accomplishment of the task and the expense attending its administration will parallel, if they do not exceed, the actual expenditures of the Government of the United States, exclusive of extraordinary expenditures entailed upon us by the war.

I now turn, in elaboration of that assertion, to article 394, which provides for a director of the international labor office, to be appointed by the governing body, subject to the instructions of that body, responsible for the efficient conduct of the office, "and for such other duties as may be assigned to him." That reads like the general-welfare clause of the Constitution.

Article 395 provides that—

The staff of the international labor office shall be appointed by the director, who shall, so far as is possible with due regard to the efficiency of the work of the office, select persons of different nationalities. A certain number of these persons shall be women.

The director, then, has the supreme appointing power, with no limitations of civil service, which may prove to be a blessing. His authority is absolute, limited only to the recognition of nationalities and of sex.

We can well imagine, from our experiences here, the influences that will be brought to bear upon this director, whoever he may be, to appoint everybody who wants to work for the international organization. I have already received a number of applications for indorsement of gentlemen who genuinely thirst for an opportunity to display their abilities under this new organization, and I have no doubt that as soon as the treaty is ratified these applications will come in, not by the hundreds but by the hundreds of thousands. What is true of the United States is true also of the world, for there are just as many people, relatively speaking, in Japan, Great Britain, France, Greece, Spain, and Belgium perhaps needing employment of this sort whose merits and whose influence will be brought to the attention of the director.

Let us see how many he may need, although, like other appointing powers, he may not strictly confine himself to the necessities of the situation. Article 396 provides that—

The functions of the international labor office shall include the collection and distribution of information on all subjects relating to the international adjustment of conditions of industrial life and labor—

That is a pretty big program—

And particularly the examination of subjects which it is proposed to bring before the conference, with a view to the conclusion of international conventions, and the conduct of such special investigations as may be ordered by the conference.

The proper collection and distribution of information upon all subjects relating to the international adjustment of conditions of industrial life and labor necessarily means its collection and distribution throughout the world. Inasmuch as we are now admitting enemy countries to this organization that assertion must be taken literally.

I have made a tabulation of the populations of those countries which participated in the making of this treaty, exclusive of Germany and her recent allies. They aggregated 1,210,007,605 people, to which must now be added the populations of Germany and Austria, making in round numbers 1,300,000,000 of people from whom these statistics and information must be collected and to whom they must be distributed—1,300,000,000 of people, covering an area of 31,330,414 square miles, including populations speaking more than 16 different tongues. The mathematical problem presenting itself here for solution is, given this task, how many people are essential to its performance and how much material? My prediction is that employees essential to the performance of this task will aggregate at least 1,000,000, and inasmuch as their activities are world-wide they must travel over the face of the globe; certainly all agents must familiarize themselves with these conditions throughout the territory of their own nation; the material acquired must then be sent to Geneva and there published and circulated.

Mr. NEW. Under frank.

Mr. THOMAS. I have no doubt that the franking privilege will be invoked, but whether it is or not we must bear the expense. The mails will be burdened constantly, overburdened most of the time, with thousands upon thousands of tons of so-called industrial literature, which not one man or woman in 10,000 will read and which not one man out of a thousand in most of the countries constituting the membership can read. To this vast army of agents obtaining and distributing this literature must be added those needed to print and bind it in appropriate form for mailing. Then the housing problem, somewhat acute here some months ago, but by no means so acute as it will be in Geneva, immediately presents itself. Where can shelter be found for this new industrial army of tax eaters? The commonest principles of humanity will demand that if they can not be found they must be furnished. And where can storage places be discovered for the constantly accumulating masses of documentary information? They are not in Geneva. Hence they must be built, and we will be required to supply the needed funds.

We must remember that international building should be appropriate to the dignity of this great supernational. The building program necessary to house the activities of this branch of the league will dwarf the building programs in the desolated parts of France and Belgium, not in magnitude or area but in prodigality of expenditure; and if the buildings are constructed on the plan of the six-hour day, five days in the week, and time and a half for overtime, an added increase in expense must be provided for.

But I have not finished reading the duties of this international labor conference. The article proceeds:

It will carry out the duties required of it by the provisions of this part of the present treaty in connection with international disputes.

These international disputes, Mr. President, will be countless as the sands of the sea once this treaty is ratified. Be it remembered that under Part XIII any organization of wage earners, I care not how small or how remote, is given authority to complain that any member nation is not effectuating or observing its covenants, including those which may be subsequently adopted, whereupon the nation complained of is required to make answer at Geneva. If the horseshoers' union in Melbourne, Australia, feels that the United States Government has been derelict in its observance of one of these covenants it may cable or otherwise communicate its grievance to the governing body, upon which the United States will be respectfully asked to show cause why the complaint of the horseshoers' union should not be affirmatively considered.

When we contemplate that what is true of the instance suggested is true universally, and that complaints against the enforcement of the law, many of them doubtless well founded, are one of the common conditions of our domestic industrial life, and when we further consider that any member of the conference, as well as the governing body itself, may also summon nations to the bar for similar reasons, we may be sure of a constant procession of complaints, notices, and trials, each crowding the heels of the other, thus creating an activity of investigation irritating in the extreme and expensive to the last degree.

Mr. LODGE. Mr. President—

The PRESIDING OFFICER. Does the Senator from Colorado yield to the Senator from Massachusetts?

Mr. THOMAS. I yield.

Mr. LODGE. As I understand the Senator from Colorado, my analysis of the provisions, such as I have been able to give, led to the same conclusion—that is, that any labor union anywhere can bring the United States or any other country to the bar of this international conference.



Mr. THOMAS. That is a fact. That power is given it by article 409 of Part XIII. But this labor office must also—

Edit and publish in French and English, and in such other languages as the governing body may think desirable, a periodical paper dealing with problems of industry and employment of international interest.

"A periodical paper" may include a paper issued every year, every month, every week, every day, or every hour. It is safe to say that such a periodical, "dealing with problems of industry and employment of international interest," will be produced in rapid succession, weekly if not daily. To print it in French and English is provided expressly, but discretion is given to print also "in such other languages as the governing body may think desirable."

I have called attention to the fact that there are 16 or 17 languages involved in the membership of this proposed league, and certainly those who can not speak English or French will not be satisfied until this periodical is translated and printed in their own language. There is no question, therefore, that it will accommodate itself to the linguistic necessities of all the members of the league; and its circulation among thirteen hundred million of people—and I have no doubt it will be fully circulated—gives added and eloquent suggestions of expenditures of the first magnitude.

We must in this connection also visualize the magnitude of the printing or publishing department of this league. It costs us \$8,000,000 a year to run the little Government printing establishment here; what will it cost to publish a periodical in 17 different languages and to be circulated among thirteen hundred millions of people? We shall have to establish a printing house of rather formidable dimensions and employ a printing force almost equal to the population of Switzerland, and quadruple the world's postal capacity to accommodate this periodical. If it is necessary to permanent peace, let us have it; but if it is not, let us not commit ourselves to it without fully comprehending the financial burden this international labor office will impose upon the already overburdened taxpayers of the world. I warn my countrymen that this new obligation will take billions from their pockets with no compensating advantage.

There is another feature of this proposed publication which I desire to impress upon the Senate. The contributing nations will have nothing to do with dictating or controlling the substance of its contents. It may publish the wildest and most anarchistic doctrines ever penned by man; it may advocate extremes of revolution; it may adopt and disseminate the doctrines of I. W. Wism over the world, while those who pay the bill have nothing to say, either as to what shall be printed or where it shall be sent. I can conceive of no more formidable scheme for subjecting the rights and the property of the world to the propagation of any doctrine or any proposition, however irresponsible its authors or however dangerous its character.

Mr. President, I have made no estimate of the aggregate cost involved in the administration of this international labor office, but I have no hesitation in again affirming that the cost will equal, if not exceed, the annual expenditures of the Government of the United States, and most of it must come from the pockets of our people, since we can better respond to such a demand than any other nation, and that will be one of our obligations under the league. Unless I can be convinced that this enterprise is absolutely essential to the welfare of all mankind, I can not accept it. Its expense is prohibitory, its usefulness may well be challenged, and its potentiality for disturbing instead of promoting the peace of the world is almost unbounded.

Mr. President, there is another feature of article 396 to which I will briefly refer. The concluding sentence is:

Generally, in addition to the functions set out in this article, it shall have such other powers and duties as may be assigned to it by the conference.

That is as broad as language can be—"in addition to the functions set out in this article it shall have such other powers and duties as may be assigned to it by the conference." The conference, in other words, is thus endowed with authority to assign such powers and impose such duties upon the international labor office as it may deem necessary or desirable. It may be said that there is a limitation—a constitutional limitation, if you please—existing in some countries which would necessarily restrict the exercise of this authority; but I do not believe that the international conference will be very keen to observe such limitations if they should conflict with any determined purpose of its own or with any object which, in the opinion of a majority—and it will require but a majority to act under the section, as I shall show—should be tested; I do not believe their compunctions would be so great as to restrict or limit their action; and we may be sure that any power or duty which the conference assumes to place upon the international labor office will be accepted by that office and the power will be exercised or the duty will be performed, as the case may

be, since nations challenging the power or the duty may be haled before the commission of inquiry by any industrial authority which may be interested in the problem and impatient of objections to its attempted solution. No more comprehensive grant of authority can be found in the charters and constitutions of all time. Its abuse is as sure as the procession of the seasons. The most conservative body clothed with such authority would in time wield it to the undoing of some one. The most radical of all bodies, as these conferences will surely become, will eagerly welcome the opportunity to reform the world by a fanatic and unbridled exercise of every scheme appealing to their sense of social justice.

Mr. President, I have said that this power can be conferred upon the governing body by a majority of the conference. I am aware that it is provided that no recommendation shall be adopted by the conference unless it shall receive a two-thirds vote. But I find in article 403 this very simple but very startling provision:

The conference shall regulate its own procedure, shall elect its own president, and may appoint committees to consider and report on any matter.

Except as otherwise expressly provided in this part of the present treaty, all matters shall be decided by a simple majority of the votes cast by the delegates present.

The voting is void unless the total number of votes cast is equal to half the number of the delegates attending the conference.

Unless my memory betrays me, the requirement of a two-thirds vote is confined to the consideration of items in the agenda. As to all other matters, then, a majority vote of the delegates present, provided 50 per cent of them shall be present, is sufficient to carry any measure. We may, therefore, have imposed upon this international labor office by one or two votes in excess of 25 per cent of the total number additional powers and duties the character of which we can not foresee, the consequences of which we can not anticipate, the expense of the administration of which we can not forecast, but which may be of vast importance to all mankind and may seriously affect the peace of the world.

Mr. President, it seems incredible that these provisions should have been deliberately accepted and crystallized into the structure of the treaty by a body of statesmen supposedly representing the intellect and the experience of all civilized nations, and I can not account for it except upon the theory that the pressure of labor unrest and the threat of social and political disturbance was so imminent in Europe that the congress yielded to the situation, abandoned the exercise of their judgment, and trusted to fate for a peaceful result. We are in no such situation thus far, and it is my earnest prayer that this Nation will never be awed into the enactment of legislation which does not conform to the measured judgment and demand of duty upon those in authority.

I come now to a brief consideration of article 423. If I can distinguish the greater importance of one of these articles from the others, I would select this article:

Any question or dispute—

Any question or dispute!—

relating to the interpretation of this part of the present treaty or of any subsequent convention concluded by the members in pursuance of the provisions of this part of the present treaty shall be referred for decision to the permanent court of international justice.

Every question, every challenge to the justice, the legality, or the constitutionality of any part of this part of the treaty or of any subsequent convention concluded by the members in pursuance thereof is to be subject to the jurisdiction of an international tribunal not yet created and from which there can be no appeal!

Mr. President, this article, if ratified, constitutes an unconditional surrender of the judicial functions of the Government of the United States to an international tribunal. It substitutes that tribunal for our own Supreme Court, as to Part XIII of the treaty, clothing it with authority to determine ultimately and finally every question and every dispute which may confront us in the future, as this part shall function once it has been ratified. Do you tell me that the Supreme Court of the United States has repeatedly decided that we can not enact a treaty in contravention of our Constitution, and that, if we do, the treaty, to the extent that it so conflicts with the organic act, is void? Of course, it could reach no other decision, for we have no more right in the exercise of the treaty power in the Senate to disregard the limitations of the Constitution of the United States than we have to disregard them in the consideration of bills presented for enactment into law. Would the Supreme Court assert its authority regardless of this provision of the treaty? Certainly, and successfully; but, Mr. President, with the organized power of the international labor unions behind them, with the great and irresistible in-



fluence which such bodies even now wield, with competing and interested nations behind them, with their powers of strike and boycott, who can say what might result from a conflict of authority such as I have suggested? We may be sure the international tribunal will assert its jurisdiction once it has been created and that it will be sustained by the truculent influence of the international labor office; hence the collision with this country becomes inevitable.

In the end we might triumph. In the end we would triumph, if the Nation is to survive; but in the interval the difficulties, the turmoils, the anxieties, the apprehensions, the strife, which must ensue from such collision of authority, can well be imagined.

The Senator from Wisconsin [Mr. LA FOLLETTE] only three days ago emphasized the unconstitutionality of section 423. I indorse every word that he said upon the subject, and I am unable to understand those mental processes which can reconcile an affirmative vote for that article in Part XIII with an oath to support the Constitution of the United States. If we had the power to do it we should not, for it is an obvious truth that we can not afford under any circumstances to permit any other than our own tribunals to entertain and dispose of any question which may arise to disturb the even tenor of governmental authority.

I think those who have given me their attention will, if they accept my position even in part, agree that Part XIII goes far beyond Part I or any other treaty in history in what it proposes to effectuate and justifies my contention that the treaty, if ratified, erects under the provisions of Part XIII a supernational endowed with limited legislative, executive, and judicial authority to be exercised for the benefit of a small part of mankind, and necessarily superseding, to the extent that it operates, the sovereignty of those powers which ratify and accept the document.

There is another feature of this supernational thus created which I wish to briefly emphasize. It is this, that no responsibilities or obligations whatever are imposed upon the international labor organization by the provisions of Part XIII. It is given enormous powers but without limitations. That is not true of any country in the world which professes allegiance to established governmental authority. It is axiomatic that power must be attended by responsibility. One of the great difficulties in the present industrial situation lies in the fact that these huge associations of men have acquired and they wield great power with no corresponding responsibility. We have exempted them from it, as far as we can, by legislation and encouraged as far as we could their repudiation of it.

They are not required to incorporate; they are not collectively or individually responsible. Collectively they are politically too powerful to be interfered with. The German Government which perished with the war was a government possessing large powers with comparatively few responsibilities. The distinction between those governments which function for the protection of life and property, and for the securing of happiness to mankind, and those which represent a privileged class, in the last analysis consists of the lack of equilibrium between power and obligation.

The labor conference may disregard the limitations of the treaty; they may propose, and some nations, regardless of others, may accept, covenants which in their operation may be extremely injurious. But whatever injury may flow from them, whatever oppression may result in consequence of them, whatever political, social, or economic disturbances may accompany them, there is no remedy against the authors of the mischief. These tribunals sit supreme and immune from the limitations of human responsibility, and because of that very fact, as all experience demonstrates, will seek to increase at all times and to extend every prerogative which may be invoked from the terms of this treaty.

Notwithstanding this, Mr. President, the so-called provisions of the treaty are criticized by a great many representatives of organized industry because too conservative and too restrictive. They demand the power of independent legislation and, as far as the body framing Part XIII could do so, they have been promised it.

In this connection let me refer for a moment to an article published in the CONGRESSIONAL RECORD of October 17, entitled "Part XIII, Labor, Treaty of Peace with Germany," from which I read this extract:

In July of this year there met at Amsterdam delegates representing the trade-union movements of the various European nations and the United States with the purpose to reorganize the International Trade Union Congress, and this purpose was effected. On nomination by Mr. Gompers, president of the American Federation of Labor, Mr. W. A. Appleton, secretary of the Confederation of British Trade Unions, was elected president of the International Trade Union Congress, succeeding Carl Legien, of Germany, who was president of the congress

at the time of the outbreak of the World War. According to a historical survey of the proceedings of the Amsterdam meeting published in the Democrat, of London, edited by Mr. Appleton, directly after the adjournment of the International Trade Union Congress convention the delegates reassembled into an international socialist convention, in which all countries were represented by the same delegates they were represented by in the International Trade Union Congress, with the exception of the United States and its delegates. According to the same article or survey, the Amsterdam International Trade Union Congress adopted a resolution, binding upon all members, which set the objective in the international labor conferences to be held under the auspices of the league of nations to be the program of the international trade-union conference that was held early in 1919 at Berne, Switzerland. In this connection it is interesting to note that the American labor movement was not represented at the Berne conference. It is also just as interesting to note further that the international trade-union conference at Berne of 1919 declared that an international parliament of labor should be set up by the league of nations with power and authority to issue not only international conventions with the binding force of law behind them but also international laws which, immediately upon adoption, should have the same force legally as national laws in all nations.

That is to say, Mr. President, that the International Trade Union Congress which met at Amsterdam immediately upon adjournment resolved itself into an international socialist convention, the latter composed of precisely the same delegates, with the exception of those from the United States, and then adopted the program of the international labor union at Berne in June previous, wherein the right of independent and effective legislation by this international body was insisted upon.

On the 22d of May Count Brockdorff-Rantzau, head of the German delegation at Paris, and in the name of that delegation, addressed a letter to President Clemenceau upon this subject, protesting against the provisions of Part XIII because they disregarded the demands of the international conference at Berne, and also because delegates from all nations, whether belonging to the league or not, were excluded from participation in the conference. President Clemenceau, in replying to that letter upon the 31st, among other things, said, referring to the labor commission which drafted Part XIII:

It also adopted a resolution in favor of the organization—

That is, the international organization under Part XIII—

being given power as soon as possible to pass resolutions possessing the force of international law. International labor laws can not at present be made operative merely by resolutions passed at conferences. The workers of one country are not prepared to be bound in all matters by laws imposed on them by representatives of other countries; international conferences, as provided for under the peace treaty, are therefore at present more effective than international labor laws, for the infringement of which no penal sanctions can be applied.

Mr. Clemenceau attached to his letter a copy of the resolution which this commission seems to have unanimously passed. I read it:

The commission expresses the hope that as soon as it may be possible an agreement will be arrived at between the high contracting parties, with a view to endowing the international labor conference, under the auspices of the league of nations, with power to make, under conditions to be determined, resolutions possessing the force of international law.

That resolution seems to have received the sanction of Clemenceau, speaking as the official head of the conference at Versailles. Does anybody doubt, Mr. President, that the next move to be made, and which will unquestionably be recognized and validated by a number of the members of the league of nations, will be the adoption of a convention clothing the international labor conference with powers of independent international legislation, if this treaty ever becomes an accomplished fact?

I have here an extract from a communication to the New York Times from the pen of Mr. William English Walling, a gentleman who was present at the sessions of the Berne conference, in which he gives an account of the purposes of the Labor Union International, as it is called; that is, the body which was represented at Berne. He says:

The Labor Union International does not intend to lose time or opportunity. It has decided also to call a conference—which will probably be a regular congress of the entire world-wide organization, representing 17,000,000 organized wage earners. The possible effect of this meeting on the labor-union situation in America, England, and other countries, and even upon world politics, scarcely needs to be insisted upon.

We can easily get a general idea of the position of this organization from the congress at which it was organized a little more than two months ago—a congress at which I was present and where I had every facility for becoming acquainted with the leading delegates.

#### ULTIMATUM TO LEAGUE OF NATIONS.

The chief action of this congress was an ultimatum to the league of nations, against which the American and British delegates alone protested. This ultimatum declared that the federation would endeavor to prevent the labor organizations of any nation from attending the league of nations labor conference unless two conditions were fulfilled:

- (1) All nations must be invited; and
- (2) The regular labor organizations affiliated with the international federation must be recognized in every instance as the representatives of the employees.

It is clear, Mr. President, that that part of organized labor for which the international federation assumes to speak will,

if it has its way, be the only part of all the labor of the world permitted to participate in and which proposes to control the proceedings of the conference.

We have, then, a determination, first, to extend the activities of the conference so as to embrace all nations, whether members of the league or not. Second, that unorganized labor need not apply for recognition, nor organized labor, either, unless it submits to the domination of the labor union international. Thirdly, that the organization is to be officially accepted by the league as international spokesman for labor under the covenant; and, lastly, that independent power of international legislation shall be conferred upon the proposed international labor conference.

We are progressing indeed, Mr. President. This Part XIII, christened by the President as the magna charta of labor, is to be endowed with powers of international legislation having universal effect without regard to the conditions and to the sovereignties of the member nations, and it is to be organized and administered in the interest of a close organization of men assuming to be the exponents and the dictators of labor's destiny throughout the world.

Mr. President, think for a moment of the startling fact that only the representatives of Great Britain and of the United States opposed that program in the first instance. Contemplate the additional fact that Germany has been taken into this conference, which represents the ideas outlined by Count Brockdorff-Rantzau on May 22 in his letter to Clemenceau.

Then tell me whether it is extravagant to predict that these separate steps for the establishment of a wage-earning oligarchy will not be taken, and taken in the immediate future.

Mr. President, I must express my admiration for the ingenuity, the ability, the consummate business-like statesmanship displayed by organized labor from the inception of the league of nations idea down to the present time. They have had a program; they have known what they wanted; and they have used their power, their influence, and their ability for the accomplishment of that object. They have never lost sight of it. The permanent peace of the world is wholly subordinate to their ultimate purpose, to dominate mankind though it inevitably means a return to despotism, a despotism without responsibility, a despotism bound to function as all despotisms of the past have functioned, a despotism in the atmosphere of which republican institutions can not survive, a despotism inevitably operating as similar governments have operated in all the history of the past.

It is significant in this connection to reflect upon the fact that this international congress, synchronizing with the meeting of the international conference, and called to meet at Washington, is also now in session. That is not a mere coincidence; it could not be. It is designed to enforce the mandates so clearly outlined by Mr. Walling in the article to which I have referred, and I think it is safe to say that this congress will continue to synchronize with the meetings of the conference until the latter is absorbed or becomes the supine instrument of this labor union international which proposes—let me emphasize that again—to restrict the benefits of this new legislative authority to the members of the international federation only.

The greater part of labor in the world is unorganized. The greater part of it never can be efficiently organized. Under the program of this labor-union international are already created the rudiments of an industrial aristocracy, exclusive as all aristocracies are, but in this instance operating in each direction. Above it rejects all consideration for any other than its own membership. Below it rejects all consideration for any other than its own membership, that it may force into its membership every man and woman in the wide world who, by any extreme of definition, can be called a wage earner, and, of course, the situation will force, as similar situations have always forced, an enormous increase of membership, not from choice but from a necessity as inexorable as fate.

Mr. President, I shall not longer detain the Senate upon this all-important subject. I do not pretend to have covered all the ground. I could not do that if I should exhaust the remainder of the week in its consideration. But I hope that I have, although imperfectly, focussed the attention of the Senate to Part XIII, so comprehensive in its character and so important in its consequences, and I am sure it will give to this part of the treaty a consideration which up to this time it has not received.

I wish I could consider Part XIII as labor's magna charta. I wish I could find something in it to justify the casting of my vote for its acceptance. My judgment is not perfect, my view of public questions by no means so; but through all my life, both public and private, I have tried to stand for the man who needs assistance. I have tried to oppose wrongdoing and improper legislation without regard to the sources or the benefi-

ciaries of the evil. I believe that every man should be made to comply with the requirements of the laws and Constitution of his country.

I am confident that the troubles now confronting us are largely the result of privilege hitherto bestowed by Federal and State governments with a lavish hand, creating inequalities of wealth and power, generating suspicions of the integrity of the Government and of its officers. Their evil results now threaten to overtake us. We must rectify, as far as we can, the evils of class legislation and avoid such serious errors in the future.

I want genuine labor to receive all that it needs for its protection and prosperity. I want all classes and conditions of men to stand equally before the law. I trust, whatever betides America, she may safely outride every stormy sea and vindicate her right to live by her attachment to law, order, the protection of the individual, the vindication of his rights, and the performance of his obligations. No such results can flow from the provisions of Part XIII of this treaty. It is not a magna charta of labor. It is a sentence of death to free institutions, a covenant of national suicide, an abandonment of our most cherished traditions.

Mr. LA FOLLETTE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CURTIS in the chair). The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Harrison	McLean	Smith, Ariz.
Brandeggee	Henderson	McNary	Smith, Ga.
Capper	Hitchcock	Moses	Smith, Md.
Chamberlain	Johnson, S. Dak.	Myers	Smoot
Colt	Jones, N. Mex.	Nelson	Spencer
Cummins	Kellogg	New	Sutherland
Curtis	Kendrick	Newberry	Thomas
Dial	Kenyon	Norris	Townsend
Dillingham	Keyes	Nugent	Trammell
Fall	King	Owen	Wadsworth
France	Kirby	Page	Walsh, Mass.
Gay	Knox	Penrose	Williams
Gerry	La Follette	Phelan	Wolcott
Gronna	Lenroot	Phipps	
Hale	Lodge	Pomerene	
Harris	McKellar	Sheppard	

The PRESIDENT pro tempore. Sixty-one Senators have answered to their names. There is a quorum present.

Mr. BORAH. Mr. President, I desire to offer two reservations, which I ask to have read, printed, and lie on the table for future use.

There being no objection, the proposed reservations were read, ordered to lie on the table, and be printed, as follows:

The United States assumes no obligation to preserve the territorial integrity or political independence of any other country or to interfere in controversies between nations—whether members of the league or not—under the provisions of article 10, or to employ the military or naval forces of the United States under any article of the treaty for any purpose.

The United States withholds its assent to article 147 and reserves full liberty of action with respect to any matter or controversy which may arise under said article relative to the protectorate proclaimed over Egypt by Great Britain on December 18, 1914.

The PRESIDENT pro tempore. The question is on the amendment proposed by the Senator from Wisconsin [Mr. LA FOLLETTE].

Mr. SMITH of Georgia. Mr. President, there are many provisions of Part XIII of which I do not approve. I will mention one which would be a serious objection to it. It provides for the circulation of literature without limit at the expense of the Governments members of the league. The preparation and distribution of this literature will be in charge of a commission of five, and certainly not more than one, if any, from the United States will be a party to its control. I would view with a great deal of distrust the character of literature which the labor leaders of Germany would prepare for distribution throughout the United States. I am unwilling through my vote to pledge my Government to bear the expense of distributing free the character of matter which I fear they would be sending all over the United States.

I mention this simply as one objection. The Senator from Colorado [Mr. THOMAS] has mentioned quite a number; yet I do not think we should reach it by amendment. It may be that the provision suits the other members of the league; it may be that they want it; and it will be perfectly easy for us to declare by reservation that we will not participate in the organization provided for under Part XIII. The reservation excepting us from the operations of Part XIII could be made, and acquiescence in our retirement from that part of the treaty would leave them the privilege of going on with it by themselves if they want to; and, if they want to, well and good. I do not want it unless we are guarded a good deal more from the evil effects of Part XIII than the present provisions guard us.



Mr. MOSES. Mr. President, I wish to ask the Senator from Georgia a question before he takes his seat.

Mr. SMITH of Georgia. If the Senator from New Hampshire desires to ask me a question, it is perfectly agreeable to me that he should do so.

Mr. MOSES. Mr. President, I will preface the question with the observation that I was much disappointed that the Senator from Georgia did not pursue the illuminating course which I thought his brief remarks were destined to follow, and I should like to ask him if he can give to the Senate an outline of the character of menacing literature which he fears may flood this country at Government expense in case Part XIII of the treaty goes into effective operation.

Mr. SMITH of Georgia. Mr. President, in view of the Senator's experience in newspaper work and his broad observation of literature, it is entirely unnecessary for me to make a suggestion of that kind to the Senator from New Hampshire.

Mr. MOSES rose.

Mr. SMITH of Georgia. One moment. If the Senator had attended any of the meetings of the Committee on Education and Labor during recent examinations it has been making, or if he had heard recent testimony given before that committee of the literature that is being distributed even now by foreigners in our own country, he would have quite an amount of information about the character of the literature which might be distributed in the United States.

Mr. MOSES. But not at Government expense.

Mr. SMITH of Georgia. I will commend the Senator to a careful study of the record of the testimony taken in the steel-strike investigation before the Committee on Education and Labor. I do not think it necessary to undertake to review it here. The Senator can get from it at least a suggestion of what I fear might be the line of literature prepared by foreign labor organizations.

Mr. MOSES. Oh, yes; I am well aware that the Senator from Georgia has had exceptional advantages to know about this matter by reason of his membership on the Committee on Education and Labor; I am also well aware that both he and I have been especially privileged in the matter of gathering information as the result of our connection with the newspaper business in this country; but, Mr. President, the printed word does not carry the weight of the spoken word. It is the letter that killeth and the spirit that maketh alive. I am sure that those Members of the Senate who are not privileged, as the Senator from Georgia is, to be members of the Committee on Education and Labor, and also journalists, would be very much enlightened if he would from his own deductions and in his own way tell the Senate exactly what it is he fears instead of holding up a nebulous, shadowy menace which leads him to reject in spirit some of the provisions of Part XIII of the treaty, and which leads him to think that menace can be avoided by a reservation rather than by more drastic action.

Mr. SMITH of Georgia. Mr. President, we know that there are many socialists among the labor leaders of Europe. We know that there are men who go even further than socialists among the labor leaders of Europe. I should object to the circulation of views at public expense throughout the United States which these men entertain. I believe that many of the labor leaders of Europe go further along lines that I do not approve than labor leaders in the United States, and I do not desire to see that foreign thought distributed in the United States at Government expense.

Mr. MOSES. Mr. President, that movement is beginning in this city to-day. I understand that the majority of the foreign delegates to the labor conference now sitting in this city correspond to the description which the Senator from Georgia gives of those foreign labor leaders whose influence he fears. They are sitting here by invitation of the United States Government, and an appropriation has been made to bear the expenses of this conference, and I feel quite sure that Government money and the Government frank will carry the utterances of those socialistic delegates all over the country, so that the condition which the Senator fears may result from the treaty already exists.

Mr. SMITH of Georgia. I should like to ask the Senator a question. Does he desire such literature distributed?

Mr. MOSES. Far from it, Mr. President. I have already stated my opinion with reference to the treaty, not only as regards Part XIII but other portions of it; and I intend to take action which shall be not at all subject to any misinterpretation as to what it means. I do not believe that reservations can meet many of the defects in this treaty which we are seeking to remedy; and it is on that account that I have thus far cast every vote of mine in the Chamber, as questions relating to it

have been pending, for direct textual amendment to the treaty, concerning which there can be absolutely no dispute as to their meaning.

Mr. FALL. Mr. President, I should like to ask the Senator from Nebraska and the Senate generally if it is not possible to arrive at some agreement as to a final vote upon the treaty, with all pending amendments and reservations, and so forth—to fix a day now when a final vote may be taken?

Mr. HITCHCOCK. Mr. President, I think the best plan would be for the Senator to prepare his request for unanimous consent, so that we can examine it.

Mr. FALL. If we can agree upon a date, the preparation of the request can be easily enough made. Then I will ask the Senator whether it would be agreeable to him that the Senate, if it chose to do so, should agree to a final vote upon this treaty, and all matters pending, by the 10th day of November?

Mr. PENROSE. What day of the week is that?

Mr. FALL. Monday, the 10th day of November. That would give us to-day and to-morrow and all of next week for discussion.

Mr. HITCHCOCK. I think that is a matter which we had better take up next week, then. I should like to see the proposal reduced to writing, so that we can examine it.

Mr. FALL. That proposition needs no reduction to writing.

Mr. HITCHCOCK. Yes; it does.

Mr. FALL. The details of carrying it out would need reduction to writing.

Mr. HITCHCOCK. We do not know how many amendments may be offered, how many reservations may be offered, or how many resolutions of ratification may be offered.

Mr. FALL. That is true.

Mr. HITCHCOCK. We are very anxious, of course, to arrive at such an agreement; but it is a request which, from the very necessity of the case, must be in some detail.

Mr. FALL. My suggestion is that we definitely dispose of all reservations and amendments now pending and to be offered and the resolution of ratification on or before the 10th day of November. If the Senator will agree in principle, I have no doubt that we can agree upon a limitation of debate, and so forth.

Mr. HITCHCOCK. I think the idea is a good one; but I should first have to see the details which the Senator proposes.

Mr. FALL. Then I would suggest a limitation of 10 minutes to each speaker on any proposition.

Mr. HITCHCOCK. I mean to say, we would have to have a statement setting forth how much time should be devoted to each of the various propositions that may come before the Senate and limiting the number.

Mr. FALL. Mr. President, is not the Senator able to say now whether he would agree upon fixing that date, or an approximate date?

Mr. HITCHCOCK. Not until I see the details of the unanimous-consent agreement.

Mr. FALL. I will agree with the Senator now, beforehand, that the details of any proposition that I will make will be nothing like so voluminous as the treaty details.

Mr. HITCHCOCK. The Senator realizes that we still have some amendments to consider.

Mr. FALL. Yes.

Mr. HITCHCOCK. And no one can tell how long those amendments may take.

Mr. FALL. But we can tell if we will fix a limit.

Mr. HITCHCOCK. No; we can not even tell then. We might spend all the time on the amendments, right up to the last day, and the reservations have no time. I want a distribution of time on the various questions.

Mr. FALL. Why, Mr. President, upon any amendment that may be offered any Senator who desires to speak upon any proposition, either pending or not pending, concerning this treaty, as the Senator well knows, can use his discretion and speak upon it.

Mr. HITCHCOCK. Well, for the present I should like to see the Senator's proposal in writing.

Mr. FALL. Then, as I understand, the Senator declines now to agree upon a date?

Mr. HITCHCOCK. The Senator asks to have the Senator from New Mexico place his proposed unanimous-consent agreement in writing, so that we may offer amendments to it.

Mr. FALL. Mr. President, of course I am now asking the leader of the protreaty forces upon the other side if he will agree to a date for a vote upon the treaty and all pending reservations and amendments, including the resolution of ratification.

Mr. LODGE. Mr. President, if the Senator will allow me—

The PRESIDENT pro tempore. Does the Senator from New Mexico yield to the Senator from Massachusetts?

Mr. FALL. I yield.

Mr. LODGE. I only want to say that I should be extremely glad if we could agree upon a day to take the final vote. The details, I think, can be arranged without difficulty, if we can agree on the day to take the final vote.

Mr. HITCHCOCK. Mr. President, I am very much gratified that the Senator is willing to propose such a unanimous-consent agreement, and if he will have it in shape on Monday we will be able to give him a very prompt answer.

Mr. FALL. A portion of the time will have been expended by that time, and of course the argument can be used that the date proposed now—that is, the 10th of November—would limit the time too much.

Mr. SMITH of Georgia. Mr. President, I should like to make a suggestion.

Mr. FALL. I yield to the Senator.

Mr. SMITH of Georgia. It does seem to me that a tentative agreement, not formally made, might be had to vote by the day named by the Senator, and that the Senator from New Mexico or the Senator from Massachusetts could confer with the Senator from Nebraska, and the details could be worked out and formally submitted to-morrow morning. I believe that all Senators desire to conclude this matter by the 10th, as suggested by the Senator from New Mexico, and I can not doubt but that the details can be agreed upon.

Mr. LODGE. Mr. President, I think it would be well to agree on the 10th; but I should not object, and I do not suppose the Senator from New Mexico would object, if we made it Tuesday or Wednesday, say, the 11th or 12th. We are not standing on one particular day, but we want an agreement, as early as possible, to take the final vote on the treaty and all reservations and amendments that may be offered.

Mr. SMITH of Georgia. I can understand why the Senator from Nebraska wishes it stipulated that a certain length of time might be had upon the reservations, but I do not think there will be a bit of trouble about that. I think the amendments will be disposed of this week. I think we will be on the reservations by Monday.

Mr. CURTIS. Mr. President, the point raised by the Senator from Georgia could be reached by providing for a vote upon the legislative day of November 10. Then we could prolong that day as much as might be necessary for the consideration of the reservations. Of course, this could not be done if the date is fixed for the calendar day.

Mr. FALL. I would much prefer the calendar day, so that we would know definitely, once for all, just exactly at what moment we were going to take the vote, and everybody could be here for that purpose. The legislative day might continue indefinitely.

Of course, I have no right, in the first place, to make the suggestion and convey the impression that I am making it by agreement or making it by authority. I am simply asking for my own information. The Senator from Massachusetts [Mr. Lodge] is the leader upon this side, and is recognized as such leader. It has been suggested to me that we should agree now to dispose of all amendments this week. That is perfectly satisfactory to me. As a matter of fact, if I consulted my own personal desires in the matter, I would agree to vote at 6 o'clock this afternoon on the ratification resolution; I would agree to vote at noon to-morrow, at 6 o'clock to-morrow, or stay over until Sunday as the legislative day, and vote on Sunday, or Monday, or Tuesday, or Wednesday, or any day; but it seems to me certainly that another week might be sufficient in which to argue the reservations, the ratification resolution, and all amendments.

We are constantly told that the country is expecting us to do something. We are constantly being urged here that we must vote by a given hour upon a certain amendment; but whenever we seek to have a date fixed for concluding this matter entirely, the other Senators are not so insistent. In other words, an amendment is pending now. They would like, I presume, to have a vote upon it at this moment; but as is apparent from my suggestion and the reception which it has met, it would not facilitate the final adoption or rejection of this treaty.

It makes no difference how many votes you might agree upon now unless you can agree upon a final vote. A unanimous-consent agreement for a vote within five minutes on the pending amendment would not facilitate final action on this treaty, and that is what I am seeking to obtain. It is impossible, apparently. I will accommodate the Senator by writing down, or dictating to some one else and having written down, a proposition, and I will not wait until Monday

to present it, either, unless the Senate adjourns over. I will undertake to present it to the Senator to-morrow at the latest.

Mr. President, I have referred to Part XIII of this treaty upon two occasions in the Senate. Of course, my remarks upon those occasions were rather incidental to a discussion upon other phases. I made the statement on the floor of the Senate, Mr. President, that by the first article of the proposed treaty we are delegating to a foreign body the power or right or authority to pass upon the external relations of the United States with all countries. Whether the council and the assembly of the league of nations constitute a superior or a supine government by the adoption of the league articles we are assisting in constituting a government unknown to the Constitution of the United States.

I referred in this connection to the fact that by the adoption of Part XIII of the treaty we are now attempting to confer jurisdiction upon an extra constitutional body in all the domestic affairs of the United States. It is impossible, or practically impossible, to imagine or to conceive any phase of domestic legislation which is not affected directly or indirectly by the labor problem. Mr. President, I am sorry to interrupt the proceedings. [A pause.]

The PRESIDENT pro tempore rapped for order.

Mr. FALL. I realize the fact that an attempt, even in this body, to cite the Constitution of the United States in the last few days has become entirely uninteresting. I realize that the frame of mind in which some of my colleagues find themselves is such that they have no patience with a legal or a constitutional argument. I do not assume any extraordinary ability as a constitutional lawyer; but there are some constitutional questions involved in the consideration of this treaty which should be apparent to any ordinary intellect, whether that of a layman or of one who has had some experience in the practice of law.

The article which was just introduced and printed in the Record at the request of the Senator from Mississippi [Mr. Williams], as I understood from his statement, was one attempting to point out the effect of delay in the adoption of this proposed treaty upon the domestic affairs of this country. Certainly we have not yet lost all interest in our domestic affairs, even if we are ready to delegate to a foreign body the control over our external affairs.

Upon several occasions, Mr. President, the lawyers of this country and the Members of both branches of the legislative department of the Government have been interested in questions touching the power of this body under the Constitution to make treaties of certain kinds. The last great discussion between the two branches of the Congress of the United States followed the treaty for the purchase of Alaska. For months the House of Representatives stood upon its constitutional right, as it claimed; and only by a compromise was it finally decided that the Senate of the United States had the constitutional power to ratify the Alaskan treaty. Great lawyers, recognized authorities upon international law, fortified by their opinion the contention of the House that a treaty such as the Alaskan treaty must be submitted to both branches of the legislative department of the Government. Never yet has it been held by a reputable lawyer, within my knowledge, that the Senate, one of the branches of the legislative department, and the administrative department of the Government acting together could constitutionally deprive another coordinate branch of this Government of its constitutional prerogatives. As I said, by a drawn battle, finally a compromise, the Alaskan treaty was ratified, and the amount provided for the purchase of Alaska was voted by the Congress. But never yet, to my knowledge, has it been contended that the Congress as a whole could take from the administrative department, or from the judiciary department, coordinate branches of our Government, the constitutional authority vested in either of those branches. Never has it been claimed that either could take from this department of the Government its constitutional power and authority.

Under the articles of the league of nations provision is made for the possible creation of a world court; but under that provision it is distinctly stated that the judgment or decision of that world court should be only advisory upon the council or the assembly. In other words, as to external matters, foreign affairs, treaty interpretations, or disputes of any character between nations, the opinion of the world court may be called for by the council or the assembly, but the final decision as to such matters rests in the political body itself, the council or the assembly, as the case may be, and the decision of the great international court is only advisory.

But we find in Part XIII that the decisions of this same court upon the domestic affairs of this country shall be binding, or else, if we do not comply with the decisions, that we, by virtue



of such declination, become an international outlaw, subject to the penalties provided by the articles themselves. In other words, not by indirection, not by inference, but directly, by written word, as I construe it, the judiciary department of the Government of the United States is to be abolished by one branch of the legislative department, acting in conjunction with the administrative department, represented by the President of the United States, or else we suffer the consequences. We would become an international outlaw, agreeing beforehand that the penalties provided shall be visited upon us. We will not even be entitled to the privilege of retaliation against economic or financial pressure. We will not legally be entitled to recognition as a belligerent in event it comes to armed force. But we are an international pirate, an international outlaw, by our own agreement, if we do not cast aside and refuse to acknowledge here as applicable or binding in this country the decisions of our own great Supreme Court, and adopt the decisions of this international tribunal.

Mr. President, to me the facts are sufficient to condemn as unconstitutional Part XIII of this treaty. I pointed out some time since and quoted from the official document a note from Great Britain to this country in which, in answer to the contentions set up by the President of the United States that Great Britain had no right to call in question an act of the Congress of the United States upon a matter which we claimed was peculiarly within our province, Great Britain claiming that if enforced it would interfere with her treaty rights, the doctrine was laid down by Great Britain at that time that it was not necessary for her to await injury under the act of Congress; that it was not necessary for her to await the proclamation of the President putting in force the exemption as to the Panama tolls, but that the enactment of the legislation itself was sufficient to give The Hague tribunal jurisdiction of the question, although Great Britain had not been injured and might never be injured. In other words, under a treaty provision Great Britain maintained that she had jurisdiction to inspect, investigate, and pass upon our domestic legislation, and if, in her judgment, such domestic legislation, although never enforced, might threaten some treaty right which she claimed to have, that the jurisdiction to decide the case should be taken from the United States and vested in The Hague tribunal; and at the present time, under this treaty, it would be vested in a council and in an assembly where Great Britain has six votes to one of the United States.

Mr. NORRIS. May I ask the Senator a question?

Mr. FALL. I yield to the Senator.

Mr. NORRIS. To what tribunal is the Senator referring as having jurisdiction to make that decision?

Mr. FALL. At the present time?

Mr. NORRIS. Under the treaty.

Mr. FALL. Under the treaty, in the event Great Britain claimed that the resolution which was adopted here yesterday might tend to violate any treaty rights which she had with us, the jurisdiction to try the question would be taken from our courts, and in the event we refused, under article 12, to submit the question to arbitration, automatically the council would take jurisdiction of the case. Then upon motion of either party the matter is referred to the assembly. So the political body, not even a judicial body, but the political body in the assembly, in which Great Britain would have six votes, would have jurisdiction of the case. Of course, if Great Britain and all her colonies were parties to the question, then they would be excluded from the decision, as would we were we a party; but if Great Britain alone was a party to the dispute with the United States, then her five colonies would have five votes and we would have none.

Mr. NORRIS. The purpose I had in asking the question was to determine whether or not this particular provision, Part XIII of the treaty, would be responsible for the bringing about of such a condition.

Mr. FALL. No.

Mr. NORRIS. That exists anyway without this provision.

Mr. FALL. This particular article would not be responsible for it, more than any other article, the difference being that the league article itself—that is, article 1—deals with matters in dispute concerning external relations. Article 13 would deal with all matters in dispute concerning domestic relations, and if Great Britain claimed that, even in a matter of domestic relations, the act of Congress was in conflict with any treaty of hers or with any provision of this treaty itself, it would take the jurisdiction from our own courts or any body constituted by ourselves.

Mr. LENROOT. Mr. President—

The PRESIDING OFFICER (Mr. HARRIS in the chair). Does the Senator from New Mexico yield to the Senator from Wisconsin?

Mr. FALL. I yield.

Mr. LENROOT. The Senator, I think, gives that construction upon the theory that, if the recommendation be one of legislation, no affirmative acceptance of that recommendation is necessary to bind the United States.

Mr. FALL. Affirmative action, I think, should be taken to bind the United States.

Mr. LENROOT. Does the Senator contend that Great Britain could invoke the jurisdiction conferred by Part XIII in any case where, previous to that time, the United States had not affirmatively accepted, either through ratification of a draft convention or by legislation, the recommendations of this conference?

Mr. FALL. Not under Part XIII. I did not intend to so state.

Mr. LENROOT. No; I thought not.

Mr. FALL. But under article 1, which I was discussing in connection with Part XIII, she could do so.

When the Senator from Wisconsin was discussing one phase of this matter a few days since I called his attention at that time to the agenda which had been written and agreed upon for the consideration of the conference now in session. In subsection 4 of article 426 it is provided that this conference now should take into consideration and might make recommendation or adopt drastic conventions concerning the employment of children, the minimum age of employment, employment during the night, employment in unhealthy processes, extension and application of international conventions adopted at Berne on the prohibition of night work for women, and so forth.

The point which I attempted to make at that time, in calling attention to this agenda, was that by legislation and by a large majority the Congress of the United States has heretofore adopted child-labor laws. I voted for the acts as they came up. I resolved any constitutional doubt in favor of the legislation because I thought it was proper legislation. I thought if the States themselves would not do what I conceived to be their duty with reference to child labor, then, in the interest of the people of the United States, the Congress of the United States should intervene. There was very grave doubt as to the constitutionality of the act expressed upon the floor of this body as well as upon the floor of the House, and finally, after its passage, the Supreme Court of the United States held that it was unconstitutional.

Now, undoubtedly the Congress, by resolution or otherwise, can affirmatively approve any recommendation which may be made by the international labor union. If they do so approve it, whether they approve it by mere legislation adopting the principle, or whether they approve it by enactment of proposed legislation immediately, whatever the means of approval may be, having once done it, in my opinion the jurisdiction of the Supreme Court of the United States is ousted and the jurisdiction is vested in the labor council and the high labor court.

Mr. LENROOT. Mr. President—

Mr. FALL. I yield to the Senator from Wisconsin.

Mr. LENROOT. The Senator means, I take it, that literally under the terms of the treaty the jurisdiction would be ousted.

Mr. FALL. That is what I mean.

Mr. LENROOT. The Senator does not mean, nor do I believe, that the jurisdiction of the Supreme Court would be ousted concerning any draft convention or recommendation that the Supreme Court might find to be in violation of our Constitution.

Mr. FALL. Mr. President, if the Senator votes for the ratification of this article, I think that, in so far as it is possible for him to do so, he is voting to oust the Supreme Court of the United States from its jurisdiction. As to the legal result of such vote, I agree with him that if the Constitution of the United States remains at all, you can not by this treaty oust the Supreme Court of the United States from its jurisdiction.

Mr. LENROOT. The Senator will agree with me that the Constitution does remain in full force and effect, notwithstanding any provision of any treaty?

Mr. FALL. Mr. President, I thought I was one, possibly, among the Senators here to occupy that position. Listening to the arguments, I had come to the conclusion that I was possibly alone, and I wondered if I was demented; I wondered if my mind was affected to such an extent that I alone yet believed that the Constitution of the United States would remain in force after the adoption of this treaty.

Mr. NORRIS. Mr. President—

The PRESIDING OFFICER. Does the Senator from New Mexico yield to the Senator from Nebraska?

Mr. FALL. Certainly.

Mr. NORRIS. I want to get the Senator's idea. I am deeply interested in what he is saying in reference to this provision of the treaty. In order to get his idea, I want to put a concrete question to the Senator.



Mr. FALL. Will the Senator, before he propounds the question, allow me to continue for a sentence or two as to the matter which has just been suggested before I get away from that question?

Mr. NORRIS. Certainly.

Mr. FALL. I made the remark which I just have made concerning my position with reference to the Constitution of the United States for the reason that, having discussed first the constitutionality or unconstitutionality of the proposed league covenant, I later attempted in my poor way to take up some of the arguments made by Senators here as to the power to put in effect, the authority to enforce, any of the powers or rights or jurisdictions which we were, constitutionally or unconstitutionally, attempting to vest in a super or extra constitutional body. In discussing the question from that phase, I alluded to the historical debates concerning our own Constitution. There was no provision in the Constitution of the United States by which the United States itself could use force to put in effect in any State any act of the Congress of the United States. For 30 years or more in the Senate of the United States, in various political campaigns, and in the House of Representatives, it was solemnly and earnestly asserted that under the Constitution of the United States there was no power in the Federal Government to enforce in a State any act of the Congress of the United States. This culminated in the nullification resolutions and Andrew Jackson's threat to hang John C. Calhoun. The constitutional debates between Calhoun and Hayne upon the one hand—I mention only the more illustrious of the great orators and statesmen and constitutional expounders of the day—and Daniel Webster upon the other, I submit at the present day would be most instructive in forming literature for the perusal of some of the Senators.

As I called attention at that time, the remarks of one of the Senators from Tennessee and other Senators in this body were identical, almost word for word, sentence for sentence, and with the same punctuation marks, as the remarks of John C. Calhoun and Hayne in attacking the power of the Congress of the United States to enforce its acts in a State. I then called attention to Webster's answer to the proposition, that so long as they remained in the league, as they called it, so long as they remained in the Union of States, they could not nullify; that they might revolt with all the consequences of revolution, but they could not nullify; and, looking upon the effect of those articles as I do, differently from the position taken by eminent colleagues upon this floor and for whose great ability and legal knowledge I have the utmost respect, occupying yet as I do the position which I entertained when I first read this document, I say that their arguments are answered by Webster's statement that you can not fail to carry out the recommendations of the council without revolution. Your argument is the nullification argument of John C. Calhoun and of Hayne.

To me the statement that there is no power in the council or the assembly to enforce its decrees or its orders, whatever they may be, is John C. Calhoun's and Hayne's argument with reference to the acts of Congress, even to the tariff act, precisely. The broadest latitude is given them to deal with all affairs which affect the peace of nations or the peace of the world or the welfare of the world; they can make any order they please, any recommendation they please; but you say they are most powerless, with no force with which to carry it out.

Mr. BRANDEGEE. Mr. President—

The PRESIDING OFFICER (Mr. SPENCER in the chair). Does the Senator from New Mexico yield to the Senator from Connecticut?

Mr. FALL. I yield.

Mr. BRANDEGEE. Supposing force were tendered to the league to carry out its decrees without any expense to itself?

Mr. FALL. I propose to touch upon that point, Mr. President, and I thank the Senator for calling my attention to it. I will refer to it now.

Under article 8 of the proposed league covenant, among other things, it is provided that armaments shall be reduced "to the lowest point consistent with national safety and the enforcement by common action of international obligations." It is useless to say to me that "enforcement by common action" was just simply language thrown in; that it means nothing, especially in view of the wording of article 9, to which I have called attention upon more than one occasion and to a portion of the history of which I want to call attention again.

Article 9, as originally proposed, was the Bourgeois French proposition. Bourgeois is now the French member of the council, having been recently appointed. His proposal, for which article 9 was substituted, provided for an international staff and an international army with which to enforce international obligations, but in words such as he used "the big four" would

not adopt his proposition. They couched it in much subtler language, but in language, according to my judgment, practically of equal strength.

A permanent commission shall be constituted—

By a majority of the council—

to advise the council on the execution of the provisions of articles 1 and 8.

That language has been referred to as amounting to nothing whatever; it has been stated that that simply had reference to the question of the entrance of new States into the league, upon the one hand, in article 1, and to the question of disarmament, which is incidentally referred to in article 8, upon the other. Senators in commenting upon it have most assiduously and carefully refrained or else wisely overlooked the provisions that the permanent commission shall advise the council as to "the enforcement by common action of international obligations"—a military commission.

Article 11, as I have insisted from the opening of this debate, from the day that the treaty was placed before us, and not article 10, is the heart of this treaty in so far as it affects our domestic rights, constitutional privileges, and the future destiny of the United States of America. It is provided in article 11, among other things, that the league, acting through the assembly or the council—and in this instance it is the council—

Shall take any action that may be deemed wise and effectual to safeguard the peace of nations.

Still I am told, with a sneer, that these words mean nothing. Why? Because definitely it is not provided that they shall have, if they can secure the means, the inferential power to enforce their orders. When it is recalled that the Supreme Court of the United States has declared that the Union has the inferential power to enforce its orders, and that only the means need be provided, the answer to the question asked by the Senator from Connecticut [Mr. BRANDEGEE] becomes, of course, apparent. Means only are necessary. They have the power; they have the military advisers; they have been given the authority; their military staff has been provided. That is what the permanent commission provided for in article 9 amounts to. Disguise it as you may, the league has been given military advisers to aid in determining how the orders shall be executed. They have been invested with the authority to promulgate their orders; the only failure has been to provide the means which they may use to carry them out.

It is, therefore, a very pertinent question which is asked by the Senator from Connecticut. Suppose that Great Britain tenders the use of her fleet and her Army or that she tenders the use of her fleet and another nation the use of her Army. I ask the strict constructionists on the floor, who have been illuminating this question by their great wisdom, what provision is there in the league covenant which denies the right to use such a loaned force to enforce the obligations?

Mr. NORRIS. Mr. President—

Mr. FALL. I yield to the Senator from Nebraska.

Mr. NORRIS. If it will not disconcert the Senator in what he has to say, I wish to refer back to a question which I intended to ask earlier, although it does not pertain to the matter that he is now discussing.

Mr. FALL. I am glad to have the Senator from Nebraska ask the question.

Mr. NORRIS. I am very much interested in the Senator's discussion of the constitutional question involved as it pertains to any recommendations that might be made under the labor provisions of the treaty. I desire to base a question on the facts which the Senator himself has brought out. He has referred to the child-labor law enacted by Congress which was held by the Supreme Court to be unconstitutional. Now, let us assume that the conference under the labor provisions of this treaty is in session, and one of the questions of which they have jurisdiction is child labor; let us assume that they recommend to us and to the other nations a child-labor law; and for the purposes of the question let us assume that it is the same law that Congress passed and that the Supreme Court held to be unconstitutional, and that, in accordance with the provisions of the labor part of the treaty, Part XIII, it is referred to Congress and Congress approves it. Now, we are brought up to the point where, through this indirect means, we have the child-labor law back just as we passed it and just as it was in effect nullified by the Supreme Court. What is the legal condition, then, of that law?

Mr. FALL. So far as the legal condition is concerned, Mr. President, it is difficult to answer except as to my own conception. I would unhesitatingly say that it was yet unconstitutional, because I maintain that the Constitution of the United States remains in force and can not be abrogated by Part XIII or any other provision of any treaty.



But what is the position, aside from my conception of the legal proposition? It is to be assumed—and it is no violent assumption—that the Supreme Court would again declare it unconstitutional, because I say to you, sir, that the Supreme Court is never going to allow itself to be deprived by treaty or by act of its constitutional powers and prerogatives.

Therefore in what position are we? We have agreed by resolution approving the recommendation of the labor conference that we would enact legislation to put it in force; we enact the legislation and the Supreme Court declines to allow it to be enforced. The people of the United States, in my judgment, are not yet ready to overthrow the Supreme Court of the United States. If they do, then, of course, they will change their Constitution, as the people have a right to change it; we have not. But we have agreed beforehand that in such event penalties shall be inflicted upon this Nation by an embargo or economic or financial pressure, and, according to my conception of the league of nations covenant, we would finally be subject to armed compulsion, because the league of nations is compelled finally to assist the labor council in putting into effect the provisions of the articles when they are violated.

Mr. NORRIS. Then, Mr. President, if the Senator will yield further—

Mr. FALL. I yield.

Mr. NORRIS. Would we not be in this position: Assuming now that we had gone on as far as suggested in my original question and the power were exercised under this treaty to compel us to obey, after Congress had agreed as before stated, and the provision in regard to the infliction of punishment were about to be enforced, then we would be faced with the proposition that we would either have to defend ourselves against the league of nations or against the Supreme Court of the United States, would we not? We would either have to violate the decree of the Supreme Court of the United States or we would have to refuse to carry out the decree of the league.

Mr. FALL. Exactly.

Mr. NORRIS. And in that case we might get into trouble by being subjected to the punishments that are provided for in the treaty.

Mr. FALL. In the one case we must refuse to obey the decision of the Supreme Court, a coordinate branch of this Government, which means revolution, the overthrow of law, or we would be in rebellion against the league of nations and an international pirate, not to be treated under our own agreement even as a belligerent entitled to be protected by the rules of civilized warfare.

Mr. SHERMAN. Mr. President, will the Senator yield for a moment?

Mr. FALL. I yield to the Senator.

Mr. SHERMAN. There is not only in the league of nations covenant a provision governing the procedure referred to by the Senator, but in article 414 of the treaty there is a provision that a commission of inquiry shall be created to investigate these questions and make a report.

Mr. FALL. Certainly.

Mr. SHERMAN. That article also provides that the commission of inquiry "shall also indicate in this report the measures, if any, of an economic character against a defaulting government."

Mr. FALL. Certainly.

Mr. SHERMAN. So that an embargo could be laid upon our commerce and port regulations could be enforced to exclude our ships from the harbors of any nation seeing fit to take such action, or other economic pressure that might be very burdensome could be applied to us. In the case of Great Britain can not the Senators see what a tremendous power in connection with foreign commerce would be afforded?

Mr. FALL. Yes; and, of course, Mr. President, the Senator recognizes that Great Britain has 24 votes in this labor league to 4 of the United States, and that in the final analysis, economic pressure not being sufficient to make us comply, the league of nations stands behind to compel our compliance, and, as I have said, even with armed force if such an armed force is provided by being loaned or otherwise; and we become an international outlaw.

Mr. President, the matter of the inquiry is one of the things I had in mind when I referred to Great Britain's declarations with reference to our domestic legislation which amounted to a statement that she had a right to supervise the acts which we pass here, and at any time when she conceived that one of those acts was an interference of a treaty with her she need not wait to be injured or have the act enforced to her injury, but that at once, under the treaty and The Hague agreement, our tribunals were divested of authority and authority was conferred upon the arbitration tribunal, which

now would be the council and the assembly of the league of nations. Under this provision to which the Senator has called attention not only would that be the case—that is, that our domestic legislation would be subject to investigation and supervision to ascertain whether in any respect it might be an impairment of a treaty obligation—but, under this provision, it would be subject to inquiry as to whether it in any way infringed upon any of the provisions of Part XIII or any of the orders taken in pursuance of those provisions.

Why, Mr. President, to me it is almost academic to discuss these propositions. I must admit that I am somewhat at a loss to find words in which to convey my meaning, except words of the very simplest character, because the meaning of the provisions themselves is so apparent that they should need no discussion to emphasize them. It is hard to discuss an obvious matter.

But, Mr. President, another complication with reference to this article, as well as with reference to other provisions of this treaty, which affects us as it affects neither of the other allied and associated powers, the five great powers—another complication which has not been referred to; or, if so, only in the most casual manner, here upon this floor—grows out of the diverse population of the respective countries.

Great Britain has a homogeneous population. Ninety-five per cent of her laboring class are organized. In other words, organized labor in Great Britain numbers 95 per cent of the total labor of the kingdom. In this country organized labor numbers less than 8 per cent, or approximately 8 per cent, of the total. In Great Britain the labor is British labor, whether English, Welsh, Irish, or Scotch. In France the labor is French labor. In Japan it is Japanese labor. In Italy it is Italian labor. In the United States, what is it? We are told now that more than 60 per cent of the labor engaged in the great steel strike is foreign labor. What the number of foreigners may be now engaged or proposing to engage in the great coal strike, I do not know. I have heard it placed as high as 73 per cent. In my own State of New Mexico, from the coal mines of which we supply all the great smelters and the railroads of the Southwest, I will say that at least 60 per cent of the labor is foreign. In dealing with the other great nations with whom we are proposing to form an alliance, we overlook the fact that we have conditions confronting us here that they have not to confront. They have populations born and raised under their laws, the laws existing for centuries. Out of a total of 81,000,000 of white stock populating this country in 1910, thirty-two and a fraction million were foreigners, either foreign born or of the first generation.

I have here a table prepared from the census reports, official, but compiled from various sources in the reports themselves, showing not only the foreign and first-generation population in 1910, but even, as it has been drawn for me, showing the numbers of such population by race; and after referring to it for a moment in passing I am going to ask that it may be printed at the conclusion of my remarks on this point for the information of the Senate.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FALL. This data is taken from the census reports of 1910.

Out of a total white stock of 81,000,000 in the United States, the foreign-born population at that time numbered 13,345,545; of foreign parentage—that is, children born here, both parents born abroad—the population was 12,916,311; of the children born here at least one of whose parents was born abroad, the population numbered 5,981,526; a total of 32,243,382.

By percentages, the total foreign white stock in the United States in 1910 numbered 32,243,382, of whom 13,345,545, or 41½ per cent, were foreign-born whites; 12,916,311, or 40½ per cent, were native whites of foreign parentage; and 5,981,526, or 18.6 per cent, were native whites of mixed parentage.

Now, let us see—

Mr. NORRIS. Mr. President—

The PRESIDENT pro tempore. Does the Senator from New Mexico yield to the Senator from Nebraska?

Mr. FALL. I yield.

Mr. NORRIS. Before the Senator passes to another subject—my attention was attracted just when the Senator commenced, and he may have given this information—do the percentages and the figures which the Senator has been giving relate to any particular part of the population?

Mr. FALL. No; simply the foreign white stock of the population. In other words, the total white stock in the United States of all classes in 1910 was a fraction over 81,000,000. Of this white stock 32,243,382 were either foreign born or of the first generation.

Mr. NORRIS. I was wondering whether they applied to the whole population, as I see they do, or whether the Senator was attempting to apply them to the laboring people only.

Mr. FALL. No. I am going to read, as rather interesting, the numbers of the racial stocks.

England, for instance, had here of foreign-born population 876,455; of foreign parentage—that is, the first generation—592,285; of mixed parentage, 853,702. In other words, there were more Americans of white stock in America of English ancestry than there were Americans of white stock in America of any other race. Ireland had of foreign-born population, in 1910, 1,352,155; of the first generation, 2,141,577; and of the mixed parentage, first generation, 1,010,628; or a total of 4,504,360.

Mr. NORRIS. The Senator means there were that many Irish in America?

Mr. FALL. Certainly.

Mr. NORRIS. As the Senator read it—I say this because I am satisfied he will be glad to have the impression corrected—it would appear as though he were reading statistics from Ireland.

Mr. FALL. Oh, no; I was reading the statistics of the white foreign stock in the United States, of course, and I was simply reading, as a matter of interest, the racial derivation of some of this white stock, because in the other tables which have been compiled I have not seen the racial differences set up.

Germany, foreign born—of course, this is in the United States—2,501,181; of foreign parentage, 3,911,847; of mixed parentage, first generation, 1,869,590; or a total of 8,282,618.

Of Swedes, a total of 1,364,215.

Of Italians, 2,098,360.

Of Russians, 2,541,649.

Of Austrians, 2,001,559.

Of Hungarians, 700,227.

Of Roumanians—of course, many of the Roumanians are classed as Austrians or of other nationalities, where in Austria, as in the Baltic countries, the population of each of the States, of course, is mixed—87,721.

Bulgaria, Serbia, and Montenegro, small, only about 22,000.

Greece, 109,665.

Canada, total French, English, and Irish, 2,754,615.

Mexico, 382,002.

I ask that this table may be printed in the Record.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The table referred to is as follows:

Country of origin of the foreign white stock.  
[Page 875, Vol. I, Census of 1910.]

Country.	Foreign born.	Foreign parentage.	Mixed parentage.	Total.
England.....	876,455	592,285	853,702	2,322,442
Scotland.....	261,034	175,391	223,238	659,663
Wales.....	82,479	84,934	81,534	248,947
Ireland.....	1,352,155	2,141,577	1,010,628	4,504,360
Germany.....	2,501,181	3,911,847	1,869,590	8,282,618
Norway.....	403,858	410,951	164,290	979,099
Sweden.....	605,183	546,788	152,244	1,364,215
Denmark.....	181,621	147,648	70,795	400,064
Netherlands.....	120,053	116,331	57,190	293,574
Belgium.....	49,397	26,448	13,419	89,264
Luxemburg.....	3,068	2,381	1,496	6,945
France.....	117,236	78,937	96,216	292,389
Switzerland.....	124,834	90,669	86,147	301,650
Portugal.....	57,623	41,680	11,819	111,122
Spain.....	21,977	4,387	6,770	33,134
Italy.....	1,343,070	695,187	60,103	2,098,360
Russia.....	1,602,752	873,055	65,842	2,541,649
Finland.....	129,669	76,261	5,096	211,026
Austria.....	1,174,924	709,070	117,565	2,001,559
Hungary.....	495,690	191,059	13,598	700,227
Roumania.....	65,920	20,707	1,094	87,721
Bulgaria, Serbia, and Montenegro.....	21,451	948	286	22,685
Greece.....	101,264	5,524	2,877	109,665
Turkey in Europe.....	32,221	2,560	533	35,314
Europe—not specified.....	2,853	2,926	1,797	7,576
Turkey in Asia.....	59,702	17,480	1,449	78,631
All other countries.....	4,612	517	2,135	7,264
Canada—French.....	385,083	330,976	216,179	932,238
Canada—other.....	810,987	307,291	704,099	1,822,377
Newfoundland.....	5,076	1,836	1,723	8,635
Cuba and other West Indies.....	23,169	8,681	9,992	41,842
Mexico.....	219,802	197,866	54,334	382,002
Central and South America.....	9,069	807	3,634	13,510
All other.....	40,167	14,214	20,142	74,523
Of mixed foreign parentage.....		1,177,092		1,177,092
Total.....	13,345,545	12,916,311	5,981,526	32,243,382

#### SUMMARY FOR 1910.

The total foreign white stock in the United States in 1910 numbered 32,243,382, of whom 13,345,545, or 41.5 per cent, were foreign-born whites, 12,916,311, or 40.1 per cent, were native whites of foreign parentage, and 5,981,526, or 18.6 per cent, were native whites of mixed parentage.

Mr. NORRIS. Mr. President, I should like to inquire of the Senator about the last figures he gave—the Mexicans. Does that total include the mixed parentage?

Mr. FALL. It does; but the mixed parentage is 54,334, and, of course, the Senator understands that that does not apply to the treaty citizenship. In other words, the population figures here do not apply to New Mexico, my State, and to other States such as Arizona, California, and Texas, where these Mexicans came in by treaty as citizens. It applies only to the foreign immigration.

Mr. NORRIS. I only asked the question because I wanted further to illuminate the subject that the Senator is discussing. I think it is an exceedingly interesting proposition in connection with this labor provision of the treaty, particularly after the Senator has coupled it, as he has, with the fact that this is the only country in the league, or, at least, it is the only one of the principal countries in the league, where that condition exists.

Mr. FALL. The only one of the five principal allied and associated powers.

Mr. NORRIS. I confess that the idea had never before occurred to me, and I can see its importance. In none of the other nations—England, France, Germany, Italy, or Japan—is that question involved. They do not have to give it consideration, as we ought to do.

Mr. FALL. That is true, Mr. President; and the fact that it should be very seriously considered here in this country is confirmed by the fact, well known, that in the Balkan countries and in the remaining portion of the remnants of the Austrian Empire the question of mixed nationalities is a burning question to-day, with which the Senate must be confronted and must deal in a short time.

Mr. NORRIS. Mr. President, if the Senator will permit me, it is a burning question and always will be a burning question here. If we get into any difficulty in which the races in Europe are our antagonists, we will have a line-up immediately, as was the case in this war. We can not avoid it on account of our mixed population.

Mr. FALL. Undoubtedly, Mr. President. The fact is that we, of the five allied and associated powers which are to-day undertaking to govern the world, are the only power in which, of the total white population, more than one-third, approximately 40 per cent, are of foreign birth or of foreign parentage, and which, coming from all of the nationalities of the earth, enters into every phase of our everyday life. But the matter I have reference to particularly in saying this is that the questions now agitating the storm center of the world, the Balkans, would be presented to us and must be met by us, as we have saddled upon ourselves by this treaty the disposition and settlement of those questions, and have left our own domestic questions of the same character entirely unsettled or to be settled by foreigners.

We have provided that Roumania, Poland, Czechoslovakia, the Czecho-Slovene State, Hungary, and the other Balkan States of mixed blood, must enter into a treaty with us by which we will see that they are guaranteed the rights of racial minorities and linguistic minorities. We have assumed that burden, and to-day we are, because of our cowardice in the front of labor, or for some other reason, afraid to deal with the foreign question within our own boundaries; or at least we fail to do it.

We go out in the world and hunt up propositions to saddle upon the people of this country, for unknown generations, burdens to be borne by the taxpayers of this country in dealing with the Roumanian or Ruthenian populations in Hungary or Poland, when we have here at home our own burning racial questions and linguistic questions. We passed an act, in force now, that no foreign-language paper shall be sent through the mails until a translation of what is contained in it shall be filed with the Postmaster General; and then we propose to say to Roumania, "You must never pass such an act, no matter what the circumstances, with reference to any Serb or Croat or Slovene within your boundaries; and we, the United States of America, will see that you do not pass such an act."

We deal with it in labor, we deal with it in all foreign questions, and then, Mr. President, this phase of it may possibly appeal to some statesman who must seek reelection at the hands of his people next year. We will deal with it in every political campaign from the election of an alderman in New York City to an election of a President of the United States. So long as you inject yourself into foreign questions concerning the disposition of Fiume and into trouble between the Serbs, Croats, and Slovenes on the one hand and Italy on the other the Italian colony in Albuquerque, N. Mex., will want to know where the candidate for Congress, upon the Republican or upon the Demo-



cratic ticket, stands with reference to the disposition of Flume. In the coal mines the Serbs, the Croats, and the Slovenes, the Roumanians, the Italians, and the Sicilians will all be aroused, and every candidate must make a pledge or lose the vote of one or the other, and if he makes his pledge and gains the vote of one he loses the vote of the other. The United States, with sufficient troubles of her own, with her labor troubles, with her great economic questions to settle, is now proposing that into politics, where those questions belong—because there the people speak—into our political campaigns, shall be injected every row, every foreign question, with reference to the ultimate disposition of the free city of Danzig. The Poles will be arrayed on the one hand and the Germans upon the other, fronting every election booth at the next election.

And still some of our friends flatter themselves that this league will not be a political question in the next campaign. I say to you now—and mark whether I am a political prophet—that it will be a burning political question in every campaign in the United States until the people have elected a Congress which will obey their wishes and restore the constitutional Government of the United States and throw this treaty into the sea, because that can be done finally. The Congress of the United States, elected by the people of the United States, can denounce a treaty, as they denounced the treaty of alliance with France and as they denounced the treaty of amity and commerce and immigration with Russia. The people of the United States will force you back into Americanism, or else, if they do not, they themselves are not worthy of the American Government formed by our fathers.

Mr. President, I have spoken at greater length than I had anticipated. The argument of the Senator from Colorado [Mr. THOMAS] upon the different phases of this particular question now pending covered the subject so fully and so thoroughly, and was so lucid in its explanation and exposition of the different provisions, that it would be a matter of supererogation to undertake to discuss the different provisions in detail; therefore I have confined myself entirely to the legal, constitutional, and governmental questions involved. Again, while not a prophet nor the son of a prophet, I venture to say to you that you may abrogate your powers, you may surrender your constitutional authority, the President of the United States may abdicate in favor of Lloyd-George, but the Supreme Court of the United States will yet remain as the rock of this Government, the ark of this covenant, and will maintain an American Government until the American people themselves can be heard.

Mr. SHERMAN addressed the Senate. After having spoken for some time,

Mr. LODGE. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Illinois yield to the Senator from Massachusetts?

Mr. SHERMAN. I yield.

Mr. LODGE. I offer a unanimous-consent agreement, which I ask to have printed and lie on the table. It may go over until Monday, when I shall call it up. I ask for this interval of delay because the Senator from Missouri [Mr. REED], who, as everyone knows, has a very deep interest in this question, is ill and confined to his house; and I should like him to have an opportunity to see this proposed agreement before it comes up for consideration. So I merely introduce it now and ask that it be printed and lie on the table.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HITCHCOCK. Let it be read, Mr. President.

The PRESIDENT pro tempore. The Secretary will read the proposed unanimous-consent agreement.

The Secretary read as follows:

It is agreed by unanimous consent that on the calendar day of Wednesday, November 12, 1919, the Senate will vote finally upon the resolution of ratification of the peace treaty with Germany; that on and after the calendar day of Monday, November 3, 1919, up to the calendar day of Monday, November 10, 1919, no Senator shall speak more than once nor for a longer period than one hour upon any amendment to the text of the treaty, or upon any amendment proposed or that may be proposed to the resolution of ratification, or to any reservation pending or offered thereto; that on and after the calendar day of Monday, November 10, 1919, no Senator shall speak more than once nor for a longer period than 10 minutes upon any amendment pending or offered to the text of the treaty, or upon any amendment pending or proposed to the resolution of ratification, or to any reservation proposed to be incorporated therein; that at the hour of 5 o'clock p. m., on the calendar day of Wednesday, November 12, 1919, debate shall end and voting shall begin, and shall be proceeded with until all amendments and reservations and the perfected resolution of ratification have been finally disposed of: *Provided*, That nothing in this agreement shall prevent the Senate from voting upon any amendment or reservation as the same is reached.

Mr. HITCHCOCK. Mr. President, I offer the following unanimous-consent agreement, which I also ask to have printed

and lie on the table in accordance with the request already made by the Senator from Massachusetts:

That beginning with the adoption of this unanimous-consent agreement the Senate shall proceed with the consideration of the pending German treaty, including proposed amendments, reservations, interpretations, and resolutions of ratification, at sessions which shall begin at 11 o'clock a. m. each day. No Senator shall speak more than once nor longer than 15 minutes on any pending question during the further consideration of this treaty and relating to action upon it.

The PRESIDENT pro tempore. Without objection, the proposed unanimous-consent agreement of the Senator from Nebraska will be printed and lie on the table.

Mr. BORAH. I understand that both these unanimous-consent agreements are simply to be printed and lie on the table.

The PRESIDENT pro tempore. Both proposals are to be printed and lie on the table until Monday.

[Mr. SHERMAN resumed his speech. After having spoken in all about one hour, he yielded the floor for the day.]

#### ADJOURNMENT TO MONDAY.

Mr. SMOOT. Mr. President, it is now 5 o'clock, and I understand that it is agreeable to both sides that the Senate shall adjourn until Monday. I move that the Senate adjourn until Monday next.

The motion was agreed to; and the Senate (at 5 o'clock p. m.), as in open legislative session, adjourned until Monday, November 3, 1919, at 12 o'clock m.

## HOUSE OF REPRESENTATIVES.

FRIDAY, October 31, 1919.

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Father Almighty, impart unto our authorities in State and Nation wisdom, courage, fortitude, tempered with charity, that they may meet the great calamity which threatens the Nation, that law and order may obtain for the good of all.

Bring in Thine own good time together capital and labor, without hate and rancor, that justice and equity may be the fruits of their labors; and Thy name be hallowed, in the spirit of the Master. Amen.

The Journal of the proceedings of yesterday was read and approved.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Dudley, its enrolling clerk, announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 3202. An act granting leave of absence to officers of the Coast Guard, and for other purposes.

The message also announced that the Senate had passed the following concurrent resolution:

#### Senate concurrent resolution 15.

*Resolved by the Senate (the House of Representatives concurring),* That we hereby give the national administration and all others in authority the assurance of our constant, continuous, and unqualified support in the use of such constitutional and lawful means as may be necessary to meet the present industrial emergency, and in vindicating the majesty and power of the Government in enforcing obedience to and respect for the Constitution and the laws and in fully protecting every citizen in the maintenance and exercise of his lawful rights and the observance of his lawful obligations.

The message also announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 3319. An act to provide for the reimbursement of the United States for motive power, cars, and other equipment ordered for railroads and systems of transportation under Federal control, and for other purposes.

#### SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 3319. An act to provide for the reimbursement of the United States for motive power, cars, and other equipment ordered for railroads and systems of transportation under Federal control, and for other purposes; to the Committee on Interstate and Foreign Commerce.

S. 3202. An act granting leave of absence to officers of the Coast Guard, and for other purposes; to the Committee on Expenditures in the Treasury Department.

## ENROLLED BILLS SIGNED.

Mr. RAMSEY, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

H. R. 9205. An act making appropriations to supply deficiencies in appropriations for the fiscal year ending June 30, 1920, and prior fiscal years, and for other purposes; and

H. R. 9697. An act to extend the time for the completion of a bridge across Pearl River, between Pearl River County, Miss., and Washington Parish, La.

## THREATENED STRIKE OF COAL MINERS.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent to take Senate concurrent resolution 15 from the Speaker's table and consider the same.

The SPEAKER. The gentleman from Wyoming asks unanimous consent to take from the Speaker's table Senate concurrent resolution 15 and consider the same. The Clerk will read.

The Clerk read as follows:

## Senate concurrent resolution 15.

Whereas the enforcement of the law and the maintenance of order for the security of life and property and the protection of the individual citizen in the exercise of his constitutional rights is the first and paramount duty of the Government and must be at all times vigorously and effectively safeguarded by the use of every means essential to that end: Therefore be it

*Resolved by the Senate (the House of Representatives concurring),* That we hereby give the national administration and all others in authority the assurance of our constant, continuous, and unqualified support in the use of such constitutional and lawful means as may be necessary to meet the present industrial emergency and in vindicating the majesty and power of the Government in enforcing obedience to and respect for the Constitution and the laws, and in fully protecting every citizen in the maintenance and exercise of his lawful rights and the observance of his lawful obligations.

The SPEAKER. Is there objection to the immediate consideration of the resolution?

There was no objection.

Mr. CLARK of Missouri. What about debate?

Mr. MONDELL. I would like to know what time the gentleman from Missouri would like to have. It had not been my thought that any extended debate was necessary, but I would be very glad to yield whatever time the gentleman desires. I expect to make a very brief statement.

Mr. CLARK of Missouri. Why not divide the hour half and half?

Mr. MONDELL. I do not think we will occupy half an hour on this side.

Mr. CLARK of Missouri. If you do not, you can quit.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent that debate on this resolution shall not exceed one hour, one-half to be controlled by the gentleman from Missouri [Mr. CLARK] and one-half by myself.

The SPEAKER. The gentleman from Wyoming asks unanimous consent that debate on this resolution be limited to one hour, one half to be controlled by himself and the other half by the gentleman from Missouri [Mr. CLARK].

Mr. MONDELL. And at the expiration of that time the previous question shall be ordered.

The SPEAKER. And at the expiration of that time the previous question shall be ordered. Is there objection?

There was no objection.

Mr. MONDELL. Mr. Speaker, yesterday morning the gentleman from North Carolina [Mr. KITCHIN] called my attention to certain resolutions that had been presented in the House, the purport and effect of which was an indorsement of the acts of the Chief Executive, and particularly of the statement he issued relative to the threatened coal strike and the situation thus created. I said in connection with the discussion as to whether these resolutions should be taken up that in my opinion, while it was the duty of the Members of Congress on their personal responsibility and individually to express their views in regard to these matters, as I had already done, I did not think it was wise for the Congress to embark upon the practice or enter upon the policy of indorsing—which would, of course, involve the possibility of criticizing—the acts of the Chief Executive in the form of resolutions. I still adhere to that view.

But, Mr. Speaker, the situation presented this morning is quite different from that of yesterday morning. Since that time the Senate of the United States has considered, debated, and adopted a resolution very different in form from the resolution to which the gentleman from North Carolina referred on yesterday—a resolution covering all phases of the present industrial emergency, and giving the national administration assurance of the constant and unqualified support of the Congress in the use of constitutional and lawful means to meet the present industrial

emergency, vindicating the majesty and power of the Government, enforcing obedience to the Constitution and the laws, and in protecting all citizens in the maintenance and exercise of their rights and in the observance of their lawful obligations.

That resolution being now before us, it seems to me highly proper that it should be adopted by the House, and I hope that it will be adopted unanimously and without a dissenting voice.

A nation-wide strike is threatened for which the miners have not voted, and for the avowed purpose of enforcing demands which the miners have not individually made, and which have not been officially sanctioned by even the representatives of the miners of some sections. Certain leaders have arrogated to themselves the authority, at least have assumed the responsibility, of calling out miners, many of whom are satisfied with present conditions, and of paralyzing the industries of the Nation and bringing want and misery into millions of homes without any real effort to adjust differences that may exist, and this at a time when miners are well paid, even considering the high cost of living, and when the approach of cold weather guarantees abundant work. I can not believe that the miners will generally allow themselves to be misled by any such arrogant and misguided leadership. If they should, they must remember while men have the right to strike men also have the right to work, and that public sentiment and the instrumentalities of Government will insist that those who may desire to continue to produce coal shall be protected in their right to do so. The country will not allow its industries to be paralyzed and its people, including women and children, to suffer, even though certain misguided men insist upon their right to quit work through a false sense of loyalty to leaders who seem to be utterly reckless of the consequences of their acts.

Mr. CLARK of Missouri. Mr. Speaker, I yield five minutes to the gentleman from North Carolina [Mr. POU].

Mr. POU. Mr. Speaker, I am glad that the gentleman from Wyoming [Mr. MONDELL] has seen fit to change his position with respect to this resolution. The situation is just this: A resolution was introduced by the gentleman from Texas [Mr. CONNALLY] which in all essentials is the same as Senate concurrent resolution No. 15. The only difference is that the gentleman from Texas in his resolution proposed to indorse the utterances of the President of the United States while Senate resolution No. 15 indorses the proposed action of the administration. If any living man can detect any essential difference between the two resolutions, he can do what I can not do. The Connally resolution ought to have been passed by this House yesterday. [Applause.] But objection was made on that side of the Chamber to even the consideration of it, accompanied by criticism as to precedent which the action of the House would establish.

Perhaps the next thing we will hear about this resolution will be the boast of the gentleman from Wyoming about the patriotism of the Republican side of the Chamber in adopting and passing this particular resolution.

We might as well talk plain. The truth is this was simply a case of "had to come across." The Rules Committee was called together this morning upon request of two minority members, and the gentleman from Tennessee [Mr. GARRETT] presented a rule providing for the consideration of the Connally resolution. A resolution providing for consideration of Senate resolution No. 15 was unanimously adopted, and at the very moment the gentleman from Wyoming arose to ask that unanimous consent be given that rule was ready to meet any objection.

Mr. MONDELL. Will the gentleman yield?

Mr. POU. I will yield to the gentleman.

Mr. MONDELL. The gentleman knows that when I appeared before the Committee on Rules this morning I stated that we were only asking a rule in case unanimous consent was refused; that I intended to ask unanimous consent. The gentleman does not want to convey the impression that any different action has been taken than was proposed?

Mr. POU. No; I am not suggesting anything of that kind. I am simply suggesting that for some reason yesterday the gentleman from Wyoming interposed two objections to the consideration of practically the same resolution he is asking to be considered by the House by unanimous consent to-day, and I submit that the explanation of the gentleman from Wyoming does not explain.

So it is another of those instances where the President of the United States is doing the bold, courageous thing, and we ought to have upheld him yesterday by unanimous vote. True, it is a little bit late to do it now, but, for God's sake, let us do it without a single objection on this floor.

We had several instances of this kind during the war. The meanest sort of criticism would be leveled against the President, but certain gentlemen, not daring to oppose him here, would



accompany their support with all manner of complaint and criticism and afterwards brag about the wonderful display of patriotism.

The course of the President from the day he took the oath of office down to this good hour has commanded the admiration of the entire world. The position he has taken respecting this strike is just the position every patriotic American expected him to take. It is the position of a great American statesman, and yet during this debate you will hear him criticized. If you do not hear this, it will be because certain gentlemen remain silent, and this is too much to hope for.

Mr. Speaker, let us show the lawbreakers how unanimous we are in supporting the man in the White House.

Mr. MONDELL. Mr. Speaker, does the gentleman from Missouri desire to use any more of his time?

Mr. CLARK of Missouri. I yield five minutes to the gentleman from Texas [Mr. CONNALLY].

Mr. CONNALLY. Mr. Speaker and gentlemen of the House, I most heartily favor the request for unanimous consent to immediately consider the Senate concurrent resolution No. 15 made by the gentleman from Wyoming [Mr. MONDELL]. I have no pride in the fact that I happen to be the author of the resolution which the gentleman from North Carolina [Mr. POW] defines as practically identical with the resolution now before the House. I want to call the attention of the House, however, to a few pertinent facts with reference to the matter.

On Monday last the gentleman from Wyoming [Mr. MONDELL] introduced by unanimous consent into the RECORD the President's statement on the impending coal strike. In reply to an interrogatory propounded to him on the floor at that time he stated that he most heartily indorses the statement made by the President of the United States on the subject, and prior to the introduction of my resolution I stated on the floor of this House that if the gentleman from Wyoming would take the resolution—not necessarily in identical language—and introduce it later in the day and ask unanimous consent for its consideration, I would not introduce such a resolution. The gentleman from Wyoming declined to take that action. I sought to get unanimous consent for its consideration on Monday last and was met with the proposition that it was contrary to the rules of the majority on the floor of this House to consider resolutions of this kind prior to their consideration by a committee. I then went before the Committee on the Judiciary on last Tuesday morning and presented my resolution and asked for its consideration, and no action was had on the resolution by the Committee on the Judiciary until this morning.

I call the attention of the House to the fact that the present resolution, the concurrent resolution from the Senate, has not yet been referred to a committee, and if that fact were ground for objection against the consideration of my resolution on Monday last, it would be equally grounds for objection against consideration of the resolution which is now before the House.

Mr. REAVIS. Mr. Speaker, will the gentleman yield?

Mr. CONNALLY. Yes.

Mr. REAVIS. For the gentleman's information I will state that the Committee on the Judiciary this morning amended the gentleman's resolution and reported out the Senate resolution in its stead.

Mr. CONNALLY. If the gentleman followed my statement, he would have noted that I said there had been no action on my resolution until this morning.

Mr. REAVIS. The gentleman said there had been no action on his resolution, and that this resolution had not yet been before the Committee on the Judiciary, while this resolution had been reported out by that committee.

Mr. CONNALLY. I will say to the gentleman that the Clerk of the Senate, just a few moments ago, after the Committee on the Judiciary had adjourned, reported this resolution officially to the House. [Applause on Democratic side.] The gentleman from Nebraska [Mr. REAVIS] can not successfully employ any sort of legislative shell game here. If the Judiciary Committee of the House took action on the Thomas resolution, it took it upon its own initiative and before that resolution had officially reached the House of Representatives.

Mr. REAVIS. Mr. Speaker, will the gentleman yield?

Mr. CONNALLY. In a moment. I will say that doubtless the same influences which forced the gentleman from Wyoming to ask for the consideration of this resolution forced a very tardy and unwilling action by the Committee on the Judiciary of this House.

Mr. REAVIS. I merely wanted to put the gentleman right, because I am sure he does not want to make any mistake.

Mr. CONNALLY. Not at all.

Mr. REAVIS. The gentleman's resolution was acted upon in the Committee on the Judiciary.

Mr. CONNALLY. When?

Mr. REAVIS. This morning.

Mr. CONNALLY. That is what I stated.

Mr. REAVIS. And that portion of the resolution following the resolving clause was stricken out.

Mr. CONNALLY. That is all right.

Mr. REAVIS. And the resolution that is now being considered was reported out of the Committee on the Judiciary this morning.

Mr. CONNALLY. That is correct. I do not dispute the gentleman's statement, but I call his attention to the fact that my resolution reposed in the Judiciary Committee from last Tuesday morning until this morning without any action upon it at all, and this morning the Judiciary Committee substituted the Senate resolution for my resolution before the Senate resolution had reached the House or the committee.

Mr. CARAWAY. Does the gentleman mean to charge all of the members of the Judiciary Committee with neglect in that respect?

Mr. CONNALLY. Oh, no; just the majority of that committee. I will say, in reply to the gentleman from Arkansas, that I found the Democratic members of the committee, with whom I conferred, including the gentleman from Arkansas, willing and anxious to have the committee take action on the resolution which was pending before it.

Mr. BEE. Mr. Speaker, will the gentleman yield?

Mr. CONNALLY. Yes.

Mr. BEE. So that this report of the Committee on the Judiciary affirmatively reported out the gentleman's resolution, but substituted for it the Senate resolution?

Mr. CONNALLY. Yes. That is true.

In order to arrive at a proper conception of the proceedings which have led up to the present situation it is necessary to review briefly some recent events. The Washington Post gives the following résumé of conditions:

#### MAIN POINTS IN THE CONTROVERSY THAT LED UP TO GREAT COAL STRIKE AND GOVERNMENT'S INTERVENTION.

These are the outstanding facts concerning the coal strike and what led up to it:

United Mine Workers of America, meeting at Cleveland on September 23, sounded the first strike alarm by declaring the war-time wage agreement ended on November 1.

Executive officers charged with the duty of negotiating a new agreement were ordered to stand out for three demands, and, if not granted, to issue a strike call for more than 400,000 soft-coal miners in 28 States. These demands were:

A five-day working week, a six-hour day, and a wage increase of 60 per cent.

#### SCALE MEETING A FAILURE.

At scale committee meetings at Buffalo and Philadelphia miners and operators thrashed over their differences without peaceful settlement. Representatives of the miners contended that the demands were not arbitrary, that the 60 per cent wage increase was set as a basis for negotiations, and that a six-hour day meant actual time the miners were to work underground.

The miners insisted on a five-day week, they said, because there were not four days' work a week the year round for each miner. They contended by limiting each miner to five days there would be a more equitable distribution of the work. The leaders denied that it was the beginning of a nation-wide campaign for a shorter working schedule.

After a failure of the two sides to get together the strike order was issued, and Secretary of Labor Wilson, acting by direction of the President's Cabinet, immediately called into conference the heads of the mining and operating associations. Subsequently the full scale committee of each were called in and various proposals were offered and rejected.

The final proposal was made by President Wilson. It suggested for negotiation without reservation, submission of questions still in dispute with the failure of negotiations to arbitration, and continued operation of the mines pending final settlement.

#### OPERATORS ACCEPT OFFER.

The operators, as set forth in a statement by Secretary Wilson, accepted the offer in its entirety; the miners accepted the offer of negotiation "and held the other two for consideration later." This, as explained by Secretary Wilson, abruptly ended the conference.

At my request the Secretary of Labor has furnished me with the following statement of the negotiations conducted at a conference of operators and officials of the miners called by the Secretary:

The following is a list of the propositions, in the order in which they were presented, which were submitted for consideration at the conference of operators and miners with the Secretary of Labor, held in the city of Washington, D. C., October 21 to 24, 1919, inclusive. No record was made of the discussions or explanations, and only the propositions and the substance of the responses are given:

#### TENTATIVE PROPOSITION MADE BY SECRETARY WILSON.

That the wages of the miners be increased at the expiration of the present contract an amount equal to the difference between the increase in wages received by the mine workers since July, 1914, and the increase in the cost of living since that date.

That the increase be effective from the termination of the present agreement until March 31, 1920.



That on these conditions the strike order be withdrawn and the miners continue at work on these terms.

That negotiations be entered into at the usual time for the making of a new scale to be effective after March 31, 1920.

Response of the miners, in substance: The miners reject the proposition, because it is indefinite and inadequate.

Response of the operators, in substance: The operators have also found the proposition indefinite and had intended to make some inquiries to get a better understanding of it, but the action of the miners in rejecting it makes it unnecessary either to accept or reject.

#### TENTATIVE PROPOSITION OF SECRETARY WILSON.

That the pick-mining price be advanced 15 cents per ton.  
That machine-mining yardage, dead work, and day wages be advanced in the same ratio.

That the daywork shall be eight hours from bank to bank.

That there shall be a Saturday half holiday.

That with these changes the existing agreement continue in effect until March 31, 1922.

That while the legal termination of the war will not take place until some unknown time in the future, the increase in the cost of living is an existing fact; therefore these changes will go into effect as of November 1, 1919.

Response of the operators, in substance: We will not enter into any negotiations for a new wage scale unless the strike order is withdrawn and it is understood that the present agreement should continue to its legal termination.

Response of the miners, in substance: The proposition is not satisfactory to the miners. We are willing to accept it as the basis of negotiations, but we are not willing to withdraw the strike order pending negotiations.

#### PROPOSITION OF THE OPERATORS, IN SUBSTANCE.

That if the strike order is withdrawn and it is understood that the existing agreement will continue until its legal termination, we will agree to submit the question of an increase in wages to a board of arbitration and abide by its decision.

Proposition rejected by the miners.

#### PROPOSITION MADE BY THE SECRETARY OF LABOR.

That all of the questions in dispute be submitted to arbitration and that work be continued pending the decision of the arbitrators.

Proposition rejected by operators and miners.

#### TENTATIVE PROPOSITION MADE BY SECRETARY WILSON.

That the wage-scale committees of the operators and miners go into conference without reservation for the purpose of negotiating an agreement, as though no demands had been made or rejected, having due regard to the interests of their respective groups.

Response of the miners, in substance: We will go into conference with the wage-scale committee of the operators without reservation for the purpose of negotiating an agreement, having in mind the interests of the mine workers.

Response of the operators, in substance: We will go into conference with the wage-scale committee of the mine workers without reservation for the purpose of negotiating an agreement, having in mind the interests of the operators, if the strike order is withdrawn.

#### LETTER FROM THE PRESIDENT.

"I have been watching with deep and sincere interest your efforts to bring about a just settlement of the differences between the operators and the coal miners in the bituminous coal fields of the country. It is to be hoped that the good judgment that has been exercised by both operators and miners in years gone by in the adjustment of their differences will again prevail in the present crisis. All organized society is dependent upon the maintenance of its fuel supply for the continuance of its existence. The Government has appealed with success to other classes of workers to postpone similar questions until a reasonable adjustment could be arrived at. With the parties to this controversy rests the responsibility of seeing that the fuel supply of the Nation is maintained. At this time, when the whole world is in need of more supplies, it would be a cruel neglect of our high duty to humanity to fail them."

"I have read with interest the suggestion made by you that the wage-scale committees of the operators and miners go into conference without reservation for the purpose of negotiating an agreement as though no demands had been made or rejected, having due regard to the interests of their respective groups. I am in accord with that suggestion. No body of men knows better the details, intricacies, and technicalities of mining than do the miners and operators. No body of men can work out the details of a wage scale on a more equitable basis. Their judgment would undoubtedly be based upon the sum total of knowledge of the industry. Whatever their differences may be, no matter how widely divergent their viewpoints may be from each other, it is a duty that they owe to society to make an earnest effort to negotiate these differences and to keep the mines of our country in operation. After all, the public interest in this vital matter is the paramount consideration of the Government and admits of no other action than that of consideration of a peaceful settlement of the matter as suggested by you. If for any reason the miners and operators fail to come to a mutual understanding, the interests of the public are of such vital importance in connection with the production of coal that it is incumbent upon them to refer the matters in dispute to a board of arbitration for determination, and to continue the operation of the mines, pending the decision of the board."

Response of the operators, in substance: We take the communication from the President as a command and accept his proposition in its entirety.

Response of the miners, in substance: We look upon the communication from the President as containing two distinct propositions and methods of adjustment: First, to negotiate; second, to arbitrate. We accept the first and hold ourselves ready to negotiate.

The Secretary of Labor was asked for an interpretation of the President's letter.

#### SECRETARY OF LABOR'S INTERPRETATION, IN SUBSTANCE.

It is apparent that the President desires the continued operation of the mines on a basis that will be just to all persons concerned. He has therefore proposed a method with three distinct parts, each essential to secure the accomplishment of the purpose: First, that negotiations be resumed. Second, that if the negotiations fail to bring about an adjustment, the matters in dispute should be submitted to arbitration. Third, that the mines should be continued in operation.

The operators at that point said: "We agree with your interpretation, and hold ourselves in readiness to meet at your call or the call of the miners' wage committee to fulfill the requirements of the President's letter," and immediately withdrew.

The Secretary of Labor, who is himself a miner and a member of the United Mine Workers' Union, has energetically sought to avert the pending coal strike, and, after the conference adjourned, as a final appeal sent to John L. Lewis, acting president United Mine Workers of America, the following telegram:

In view of the impending coal strike and the disastrous effect sure to follow, I deem it my duty to urge upon you the advisability, under all the circumstances, of another effort to avert the threatened stoppage of work in the bituminous coal fields set for November 1.

#### OFFERS EVERY POSSIBLE HELP.

We are all agreed, I think, that nothing should be left undone to avert this calamity, and it is therefore incumbent upon the coal operators, the miners, and the Government to cooperate by every feasible method of joint action to this end.

Having this in mind, I urgently request your international executive board to reconvene at the earliest possible moment the delegate convention of the United Mine Workers of America for a further consideration of the whole question and that, pending the assembling of the convention and its consideration of the matters presented, the miners be notified by your board to continue at work.

In which event, as Secretary of Labor, I will assume the responsibility of calling the operators of not only the central competitive fields but of the entire bituminous coal fields of the country to meet in the same city and at the same time set by your executive board for a reconvening of the delegate convention of the United Mine Workers of America.

#### WOULD HAVE CALLED OPERATORS.

If you will give this request favorable consideration I feel that the convention called in accordance therewith with coal operators meeting in the same city, a way will be worked out that will be satisfactory to your membership, to the operators, and to the Government of the United States.

I earnestly urge you to do this, feeling that if you do your course will be commended by the people of the United States, and the dire consequences that would follow a nation-wide coal strike will be prevented. If you concur with my request and call a convention, any place selected by your board will be satisfactory. If you desire to meet in the city of Washington, I will gladly make the arrangements for a meeting place and do everything I can to cooperate with you. I am sending you by mail an official copy of the President's statement issued Saturday, October 25.

The statement of the President issued on October 25 and referred to by the Secretary of Labor is as follows:

On September 23, 1919, the convention of the United Mine Workers of America at Cleveland, Ohio, adopted a proposal declaring that all contracts in the bituminous field shall be declared as having automatically expired November 1, 1919, and making various demands, including a 60 per cent increase in wages and the adoption of a six-hour work-day and a five-day week; and providing that in the event a satisfactory wage agreement should not be secured for the central competitive field before November 1, 1919, the national officials should be authorized and instructed to call a general strike of all bituminous miners and mine workers throughout the United States, effective November 1, 1919.

#### RECALLS THE WAR AGREEMENT.

Pursuant to these instructions, the officers of the organization have issued a call to make the strike effective November 1. This is one of the gravest steps ever proposed in this country, affecting the economic welfare and the domestic comfort and health of the people.

It is proposed to abrogate an agreement as to wages which was made with the sanction of the United States Fuel Administration, and which was to run during the continuance of the war, but not beyond April 1, 1920. This strike is proposed at a time when the Government is making the most earnest effort to reduce the cost of living and has appealed with success to other classes of workers to postpone similar disputes until a reasonable opportunity has been afforded for dealing with the cost of living.

It is recognized that the strike would practically shut off the country's supply of its principal fuel at a time when interference with that supply is calculated to create a disastrous fuel famine. All interests would be affected alike by a strike of this character, and its victims would be not the rich only but the poor and the needy as well—those least able to provide in advance a fuel supply for domestic use.

It would involve the shutting down of countless industries and the throwing out of employment of a large number of the workers of the country. It would involve stopping the operation of railroads, electric light and gas plants, street railway lines, and other public utilities, and the shipping to and from this country, thus preventing our giving aid to the allied countries with supplies which they so seriously need.

The country is confronted with this prospect at a time when the war itself is still a fact, when the world is still in suspense as to negotiations for peace, when our troops are still being transported and when their means of transport is in urgent need of fuel.

#### WITHOUT APPROVAL OF WORKERS.

From whatever angle the subject may be viewed, it is apparent that such a strike in such circumstances would be the most far-reaching plan ever presented in this country to limit the facilities of production and distribution of a necessity of life and thus indirectly to restrict the production and distribution of all the necessities of life. A strike under these circumstances is not only unjustifiable, it is unlawful.

The action proposed has apparently been taken without any vote upon the specific proposition by the individual members of the United Mine Workers of America throughout the United States, an almost unprecedented proceeding. I can not believe that any right of any American worker needs for its protection the taking of this extraordinary step, and I am convinced that when the time and money are considered it constitutes a fundamental attack, which is wrong, both morally and legally, upon the rights of society and upon the welfare of our country.

I feel convinced that individual members of the United Mine Workers would not vote, upon full consideration, in favor of such a strike under these conditions.

#### INTEREST OF PUBLIC PARAMOUNT.

When a movement reaches a point where it appears to involve practically the entire productive capacity of the country with respect to one of the most vital necessities of daily domestic and industrial life, and when the movement is asserted in the circumstances I have stated, and at a time and in a manner calculated to involve the maximum of dangers in the public welfare in this critical hour of our country's life, the public interest becomes the paramount consideration.



In these circumstances I solemnly request both the national and the local officers and also the individual members of the United Mine Workers of America to recall all orders looking to a strike on November 1 and to take whatever steps may be necessary to prevent any stoppage of work.

It is time for plain speaking. These matters with which we now deal touch not only the welfare of a class, but vitally concern the well-being, the comfort, and the very life of all the people.

I feel it is my duty in the public interest to declare that any attempt to carry out the purpose of this strike, and thus to paralyze the industry of the country with the consequent suffering and distress of all our people, must be considered a grave moral and legal wrong against the Government and the people of the United States.

#### LAW IS TO BE ENFORCED.

I can do nothing else than to say that the law will be enforced and the means will be found to protect the interests of the Nation in any emergency that may arise out of this unhappy business.

I express no opinion on the merits of the controversy. I have already suggested a plan by which a settlement may be reached, and I hold myself in readiness at the request of either or both sides to appoint at once a tribunal to investigate all the facts, with a view to aiding in the earliest possible orderly settlement of the questions at issue between the coal operators and the coal miners, to the end that the just rights, not only of those interests, but also of the general public, may be fully protected.

The resolution introduced by me on October 27 is as follows:

Whereas the President of the United States has made a public statement regarding his proposed course of action with reference to the threatened strike in the coal fields of the United States and his intended efforts to enforce the law and maintain the integrity of the Government of the United States: Therefore be it

*Resolved by the House of Representatives of the United States of America (the Senate concurring),* That the utterances of the President of the United States contained in said statement are approved by the Congress of the United States; and that the Congress hereby pledges to the President of the United States its support in all constitutional measures which the President may take in order to enforce and maintain the laws of the United States in their full integrity.

The Senate resolution now pending before the House is as follows:

Whereas the enforcement of the law and the maintenance of order for the security of life and property and the protection of the individual citizen in the exercise of his constitutional rights is the first and paramount duty of the Government and must be at all times vigorously and effectively safeguarded by the use of every means essential to that end: Therefore be it

*Resolved by the Senate (the House of Representatives concurring),* That we hereby give the national administration and all others in authority the assurance of our constant, continuous, and unqualified support in the use of such constitutional and lawful means as may be necessary to meet the present industrial emergency and in vindicating the majesty and power of the Government in enforcing obedience to and respect for the Constitution and the laws, and in fully protecting every citizen in the maintenance and exercise of his lawful rights and the observance of his lawful obligations.

Mr. Speaker, this is not a strike which was voted by the miners—by the miners who dig the coal. It was called by the leaders, who acted without referring the matter to the miners themselves, who alone ought to have the right to say when they shall stop work.

Mr. Speaker, any man who works has the right to quit work whenever he sees fit to do so; any man has the right to continue to work whenever he may see fit to do so. The right to work when he wants to is just as sacred as the right to quit work. The Constitution guarantees the right to work as well as the right to quit work, and the Government owes to every man who desires to continue work the duty to protect him in that right and privilege. To those miners who desire to continue to dig coal to earn livelihood for themselves and their families the Government should give every protection. The operators must also obey the law; they should not be allowed to charge excessive prices, and the authorities state that they shall not be allowed to do so. The country is facing a great crisis; calamity may befall the consuming public at any moment. The Government will fix maximum prices of coal so that the owners and operators can not take advantage of this situation to raise prices; the law will force operators and miners alike to respect the rights of the great consuming public—the public whose patronage pays for both the wages of the miners and the coal of the operators. Neither of these special interests must be allowed, in violation of law, to starve or freeze the public into submission.

I am glad to know that such Members of this House as the gentleman from Ohio, Mr. RICKETTS, himself a union coal miner; the gentleman from Minnesota, Mr. CARSS, a member of one of the railroad brotherhoods; and the gentleman from Ohio, Mr. COOPER, also a member of a railroad brotherhood, will support and vote for the Senate resolution now pending. It is a question of the supremacy of the law.

It is immaterial to me whether you pass the resolution which I introduced or the Thomas Senate resolution. All I want is that this House shall go on record for the enforcement of the law and the guarantee of the constitutional rights of American citizens in this great crisis. [Applause.] I am glad that the Republican Party in this House—although it has done it tardily, although it seems to have done it unwill-

ingly, although it seems to have done it under the spur of absolute necessity—has at last come to the point where it is willing to indorse the administration in the enforcement of the law. However, I want to say furthermore for some gentlemen on the Republican side of the House that a great many of them came to me on Monday last and expressed their hearty approval of my resolution and their willingness to have it considered by this House. This side of the House has been willing all along. [Applause.]

Mr. MONDELL. Mr. Speaker, I yield five minutes to the gentleman from Illinois [Mr. MADDEN].

Mr. MADDEN. I am sorry, Mr. Speaker and gentlemen of the House, to see a disposition here rather to quibble about politics than to declare what the Congress and the administration ought to do. This is not a party question; it is an American question. [Applause.] We have a clear duty devolving upon us, and that duty is to protect every American in his rights, to protect life and property, to preserve peace and good order, to prevent the usurpation of the power of the Government by any man or combination of men. The people have reached the conclusion that the time is here when a few men in any walk of life shall no longer dictate the policy of the Government. [Applause.] The people will not submit quietly to a determination on the part of any organization, no matter what it is, to declare against the interests of the whole American people. I am glad the President has had the courage for once [applause on the Republican side] to speak out. It is the first time the President has displayed such courage in behalf of all the American people. [Applause on the Republican side.] I am glad to be here to help sustain him in the enforcement of the law.

There is no party politics in that statement; no. I do not make it for any party purpose. We are here to represent the whole American people; we are here to see that no part of the American people are discriminated against by any section of the American people; we are here to see that everybody has a chance to live. If the declaration of the coal miners should be put into force at the opening of the winter season, millions of our people would suffer want and distress, and starvation and death would follow the lack of fuel. This is a question far beyond the rights of any organization; it is a question of whether the Government of the United States shall be supreme [applause], whether it shall have power to enforce the law; and for one I am ready to meet any issue that may arise and help in every way within my power to see that the Government of the United States maintains control of the situation, whatever it may turn out to be. [Applause.]

Mr. MONDELL. Mr. Chairman, I yield five minutes to the gentleman from Iowa [Mr. TOWNER]. [Applause.]

Mr. TOWNER. Mr. Speaker, it is certainly refreshing and reassuring to know that there is no division among the membership of the House upon the fundamental proposition of the enforcement of law and the maintenance of order. To the national administration and to all others in authority the House will unanimously give assurance of its "constant, continuous, and unqualified support" to meet the present industrial emergency. [Applause.] Just now, when it is charged that there exists an organized movement to overthrow the Government and to substitute the rule of a class of reckless and lawless conspirators, who have no interest in the laboring men except to exploit them and who take advantage of every occasion of unrest to stimulate disorder, which they hope will lead to the revolution they plan, the Congress of the United States will be found supporting the President to the utmost of its power in his demand that the law be enforced and that the lives and vital interests of the people be protected. [Applause.]

I regret that gentlemen of the minority see fit to criticize the leader of the majority because he was unwilling upon the spur of the moment to take up the resolution that was introduced by the gentleman from Texas [Mr. CONNALLY]. The resolution of the gentleman from Texas was more in praise of the President than it was for the supremacy of the law and the support of the Constitution.

Mr. CONNALLY. Will the gentleman yield?

Mr. TOWNER. In just a moment I will yield. The gentleman's resolution begins, "Whereas the President of the United States has made a public statement regarding his proposed course of action," "and his intended efforts," "his utterances are approved," and so forth. Nothing about the present emergency, nothing about our duty, except as we learn them through the utterances of the President. It occurs to me that as between such a declaration and the statements of the present concurrent resolution, which declares, "That we hereby give the national administration and all others in authority the assurance of our constant, continuous, and unqualified support in the use of such constitutional and lawful means as may be necessary to meet



the present industrial emergency," there should be no question. The one is applicable to conditions. The other is principally praise of an individual. The differences are quite vital.

Mr. LONGWORTH. Will the gentleman yield?

Mr. TOWNER. I will yield first to the gentleman from Texas, who first interrogated me, and then I will yield to the gentleman from Ohio.

Mr. CONNALLY. In view of the fact that the majority leader absolutely approves the statement of the President, I would like to ask the gentleman from Iowa whether or not he approves of the statement of the President.

Mr. TOWNER. I certainly do; but there is—

Mr. CONNALLY. Approve of what?

Mr. TOWNER. I approve of the statement made by the President.

Mr. CONNALLY. All right.

Mr. TOWNER. Certainly, I do. [Applause.] Certainly does every man here; but it is not incumbent on Congress every time the President makes a statement which it approves to pass a resolution of approval. Neither is it wise in time of a great crisis, regarding which we desire to give an expression of our belief and purpose, to approve only what the President has said about it. [Applause on the Republican side.] I now yield to the gentleman from Ohio.

Mr. LONGWORTH. Is it not true also that the resolution by the gentleman from Texas simply approved the President's course with regard to one particular event, and not generally in support of the Government?

Mr. TOWNER. This is true: The coal strike is not the only threatened disturbance. There are many other strikes now in existence, and still others which are threatened. There is, as the pending resolution declares, a "present industrial emergency," general and widespread. However, I do not criticize the resolution of the gentleman from Texas. I am only endeavoring to show there are good reasons for preferring the pending resolution.

Mr. Speaker, in any controversy existing between the employers and employees in the steel industry, the coal industry, or any other industry, Congress does not take the part of either side. It stands impartial between them. But it does say that there must be a peaceful settlement of such controversies, and not a settlement brought about by force and violence. It does say that if either side shall try to force a favorable determination by terrorism and violence they must be restrained and punished.

It certainly can not be charged that Congress has been indifferent or unsympathetic toward labor. Congress has passed within the last few years more legislation in the interest of labor than has ever before been enacted. Congress has not and does not condemn or criticize laboring men for making legitimate efforts to better their condition. But it is a fact that seems to be fully established that those who are violent enemies of the Government and who are plotting to overthrow it are seeking to stimulate discontent and unrest among the workingmen, and in some instances have secured recognition as labor leaders. These are the men, many of them aliens, who counsel resistance of the law, and who out of these conditions of disorder hope to organize a revolution to overthrow the Government. To these efforts, which are in reality as much assaults against the Government as if their promoters were in arms and under a foreign flag, the Government can not be indifferent.

The Government of the United States is not weak. It is by far the strongest Government on earth to-day. It is strong not only in material resources but it is also strong in the affections of the people. Any effort either by intimidation to coerce it or by revolution to overthrow it is doomed to disastrous failure. Such attempt would only bring misery and suffering to thousands who have no sympathy with its purpose. The miners of the country are in the main patriotic and loyal. Their service in the late war demonstrated that fact. The foreigners who have come here for the most part appreciate the Government under which they have so happily bettered their condition. It is inconceivable that they should desire to follow the leadership of men seeking to overthrow the Government. Nothing they could do would so impair their position and jeopardize the advancement of their interests as to yield to the influence and leadership of such men. The people of America are long-suffering and patient, but when they are vitally affected they will find a way swiftly and surely to protect their interests.

It is therefore important that all should be made to understand that in the present emergency there will be no division, no hesitancy, no paltering, no subservience to the forces of disorder or revolution. The administration has spoken, and by the passage of this resolution the Congress will have spoken to the effect that, as stated in the resolution, they will use all the powers and resources of the Government in "enforcing obedience

to and respect for the Constitution and the laws, and in fully protecting every citizen in the maintenance and exercise of his lawful rights and the observance of his lawful obligations." [Applause.]

Mr. CLARK of Missouri. I yield five minutes to the gentleman from Tennessee [Mr. GARRETT]. [Applause.]

Mr. GARRETT. Mr. Speaker, I am very glad to have the opportunity, as a public official charged in some degree at least with responsibility in public affairs, to express my approval both by voice and vote of this Senate resolution. [Applause.]

There is no disposition upon my part to inject partisanship into this matter, and it is regrettable that in the discussion of it gentlemen can not refrain from criticizing the President of the United States. [Applause on the Democratic side.] The gentleman from Iowa [Mr. TOWNER] who just preceded me criticized the resolution of the gentleman from Texas [Mr. CONNALLY] because it approved the statement of the President of the United States, which the gentleman from Iowa says he himself approves, but he objected to the form of the resolution. As a matter of fact, the President of the United States is the supreme executive authority charged with the enforcement of the law, and, to my mind, it would be highly proper that it be expressed in the wording of the Connally resolution. I am glad to have the opportunity now—I wish I could have had it when efforts to bring this proposition before the House were blocked by Republican objection—to approve it. Criticism has been made of the form of the resolution presented by the gentleman from Texas [Mr. CONNALLY], and yet I call the attention of the House to the fact that the cunning genius of the Republican side in now declaring its approval of the substance did not set itself to working out a form of expression of approval. [Applause on the Democratic side.] Not yet has there been introduced in either the House or the Senate by any Republican a resolution of indorsement. [Applause on the Democratic side.] Feeling so strongly upon the question of asserting approval of law enforcement, I on yesterday afternoon, after repeated efforts had been made on the Democratic side of the House to secure unanimous consent for consideration of the Connally resolution, introduced a resolution to discharge the Committee on the Judiciary from its further consideration and place it upon its passage. This morning when the Committee on Rules convened to consider my resolution the distinguished majority leader appeared before it with a proposition to bring about consideration of the Senate resolution, and the Senate resolution having in the meantime passed the Senate, it was quite agreeable to substitute the Senate resolution for the Connally resolution and his rule for mine.

After all, the question here, my fellow Members, is the law, the supremacy of the law [applause] over threatened disaster, over threatened anarchy, over threatened riot, over threatened conditions which, if the threat be made good, will bring distress such as this country has never witnessed. And it is a happy thing that we are able here to agree to pledge to the executive authority of this country our enthusiastic, our unanimous, our untiring support, in the efforts he will make in behalf of law, because under law alone can liberty prevail. [Loud applause.]

Mr. Speaker, I yield back the remainder of the time allotted me.

Mr. MONDELL. Mr. Speaker, I yield three minutes to the gentleman from Illinois [Mr. CANNON]. [Applause.]

Mr. CANNON. Mr. Speaker, I do not care to talk of the past. Both great political parties, from time to time, have exhibited a great desire to command the vote of people who, in my judgment, are not loyal. That applies to some of the leaders who called this strike; it does not apply to the great mass of the people who labor, whether they labor in mines or on railways. When you get down to the Australian ballot, and when you get down to the facts, the largest portion of the people who live by their labor are just as loyal as any other of our citizens. We have gone to the limit on both sides heretofore, gone to the limit and skimming out to the very edge, and sometimes crossing the edge, because there has been propaganda, because people sat in the galleries and did this and that and the other. While you Democrats have been six we Republicans have been half a dozen on this side. [Applause.]

That is behind us. The majority leader, the gentleman from Wyoming [Mr. MONDELL], voiced his approval of the stand of the President. I approve it, and I rejoice in it. [Applause.] I believe, and at least hope, that every Member on each side of the House at last, all of us, stand as a unit for the enforcement of the law. [Applause.] We stand for the enforcement of the law with all of the machinery of the Government if necessary to be called into action, judicial and military, to enforce the law which, like the grace of God, covers every,



man, employer or employee, rich or poor, great or small. [Loud applause.]

Mr. MONDELL. Mr. Speaker, I yield three minutes to the gentleman from Illinois [Mr. KING].

Mr. KING. Mr. Speaker, one of the great, distinguishing characteristics of the American people is fair and square play to all classes. I am rejoiced to be able to vote for this resolution after it has been made to apply to all classes of the people of this country and promises protection to all classes, and is not directed against any one class to the exclusion of any other class. Believing, as I do, in fair play for all classes, I ask unanimous consent, Mr. Speaker, to place in the CONGRESSIONAL RECORD at this point a telegram, dated October 30, 1919, to the Secretary of Labor, Mr. Wilson, from John L. Lewis, president of the United Mine Workers of America.

Mr. BLANTON. I object, Mr. Speaker.

Mr. KING. I expected the gentleman would object. The gentleman has said that he would hang them as high as Haman. I would recommend to the gentleman to read the history of Robespierre, of France, and his ending. The gentleman would hang all the laboring people!

Mr. BLANTON. No. Only the autocratic, anarchistic leaders who preach revolution against our Government.

Mr. KING. I refuse to yield to a gentleman at the present time who would hang men as high as Haman.

The SPEAKER. A gentleman must not take the floor without consent.

Mr. KING. Mr. Speaker, I yield back whatever time I have remaining.

Mr. CLARK of Missouri. Mr. Speaker, I yield three minutes to the gentleman from Maryland [Mr. LINTHICUM].

Mr. LINTHICUM. Mr. Speaker, I am heartily in favor of the passage of the Thomas resolution giving the national administration the assurance of our constant, continuous, and unqualified support in the use of such constitutional and lawful means as may be necessary to meet the present industrial situation. I can not see why we should not have passed the Connally resolution on Wednesday last, which, while differently worded, meant the same indorsement and support of the administration. The truth is that what this country expects is for Congress to back up the Constitution and law of the land and to openly support the President whenever he speaks as the Executive of this great country in support of law and order. The people of my State feel that Congress has been playing too much politics. [Applause.] As I said here the other day, what the people want us to do, and what Congress needs for its reputation, is to eschew politics and look to the welfare of the country. [Applause on the Democratic side.]

There are more than 300 strikes in this country at the present time, and while they are continuing Congress, instead of devising a system for the settlement of labor and capital disputes and thereby again establishing peace and prosperity in the land, excites itself politically and tries to make campaign material, of which there is a plenty, and buttress its respective parties for the great battle of next year. The party which eschews politics and best serves the people will best serve its future destiny and success. Let us wholeheartedly, nonpolitically, and with the welfare of the people ever at heart give to the national administration that constant, continuous, and unqualified support in spirit as well as in law, to the end that peace, prosperity, and happiness may again prevail. We Democrats must look to you Republicans for this support, as you are now in full control of both branches of Congress. It is to you that the country will look for congressional action and activity, and to you will be largely due any credit or discredit for what is done.

No body of men could give a stronger indorsement than we give in that resolution. We went no further when we declared war and said that all our men and our money should be at the disposal of the national administration for the carrying on of the war. Here we say that we will give them "our constant, continuous, and unqualified support" in carrying out the law in this matter. If Congress lives up to that indorsement, I do not believe we will have any protracted strike. I believe these men will consider some agreement. It seems strange and deplorable to me that in a great, civilized country of 100,000,000 people and more, that 500,000 miners can not agree with their employers without having a strike and the destruction of millions of dollars' worth of property. Certainly there ought to be some solution for such a situation. I believe with the indorsement given by this resolution, and the President speaking out boldly for the people of this country, that some solution will be reached and that we will avert this strike or a protraction of it, which would strike terror into the hearts of the people of this country, and which would mean to the women and children through this

coming winter distress, sickness, and desolation, for want of fuel for heat and cooking.

I recognize the fact that labor has the full right to organize and conduct its business through labor organizations. There are more than 4,000,000 labor organization members in this country, and I have invariably given them my support in all matters appertaining to their welfare and prosperity. I shall continue to do this so long as it is in accordance with the Constitution and laws of the land.

I likewise realize the fact that capital also has its rights and is entitled to an adequate return upon its investments. It is patent to all of us that neither labor nor capital can prosper except by working in unison for production and profit. We must also remember that the consumers of the country have their rights; they are unorganized; nevertheless their wants and needs are the very essence of existence. All classes are consumers, and thereby all people are interested in the settlement of labor and capital disputes, to the end that production may be enlarged, that labor may be well paid, and that capital may receive its return upon its investments, and yet at the same time that the consumer, by virtue of the production and prosperity, may be able to reduce his cost of living, now so extremely high. Why, Mr. Speaker, if we could once rid ourselves of labor and capital disputes that in itself would reduce the cost of living by increased production.

With the vast number of strikes now existing and with the coal strike imminent and practically certain, one can not calculate the injury they mean to the country in nonproduction, destruction, and discomforts of life. There certainly ought to be some system by which such catastrophes could be avoided and the loss discontinued. I feel that out of this emergency should grow some legislative action or agreement, through the combined efforts of the Government and capital and labor, which will bring about a solution of the present deplorable situation and method.

When we realize what it would mean to this country, what it would mean to the defenseless women and children as well as the aged of the land, not to be adequately provided with heat, we can but realize what a strike of this kind means to the discomfort of our people. It is highly essential that the national administration, while recognizing the rights and liberties of the strikers and their inalienable rights under the Constitution, should by all means at its disposal not alone uphold the Constitution and laws of the land but by such additional action provide the necessary fuel for the conduct of our industries, the transportation of our food and clothing supplies, and the warming and cooking for the people of our land.

The crisis which confronts the country, which if allowed to prevail, would be a calamity and strike to the hearts of the people almost as badly as did the Great War, from which we have so successfully emerged. That Congress has guaranteed its support of the national administration is a great credit to the two bodies composing the legislative branch of the Government; that the President has acted with such firmness and promptness endears him to the hearts of the people and to every law-abiding citizen of the land. To him the people look for their protection and rights, to him who brought us through the Great War with success and glory do the people look with trust and confidence. [Applause.]

The SPEAKER. The time of the gentleman from Maryland has expired.

Mr. LINTHICUM. Mr. Speaker, I ask leave to revise and extend my remarks.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. MONDELL. Mr. Speaker, I yield to the gentleman from Oregon [Mr. McARTHUR] such time as he desires.

The SPEAKER. The gentleman from Oregon is recognized.

Mr. McARTHUR. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by printing an editorial from the Portland Morning Oregonian of last Friday, entitled "The public and the labor union."

The SPEAKER. The gentleman from Oregon asks unanimous consent to extend his remarks in the RECORD by the insertion of the editorial referred to. Is there objection?

There was no objection.

Mr. MONDELL. Mr. Speaker, I yield to the gentleman from Idaho [Mr. FRENCH].

The SPEAKER. The gentleman from Idaho is recognized.

Mr. FRENCH. Mr. Speaker, this resolution should receive the vote of every Member of the Congress. In the midst of a great crisis half a century ago a man later to become President said, when Lincoln was assassinated, "The Government at Washington still survives." In the crisis now upon our Nation the Congress by this resolution says to the American people, em-



ployer and employee, all alike, that the Government at Washington still survives, and that the interests of 110,000,000 people are greater than any selfish interests of any group or class of citizens. [Applause.]

Mr. CLARK of Missouri. Mr. Speaker, I yield two minutes to the gentleman from Missouri [Mr. RUCKER].

The SPEAKER. The gentleman from Missouri is recognized for two minutes.

Mr. RUCKER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. The gentleman from Missouri asks unanimous consent to extend his remarks in the RECORD. Is there objection.

There was no objection.

Mr. RUCKER. Mr. Speaker, obviously nobody can discuss this resolution adequately in two minutes; therefore I will not attempt it, except to say that I give it my most hearty and cordial approval, and I want to congratulate the House upon the unanimity of action which I think will be taken here this morning.

A few moments ago a colloquy occurred across the aisle with reference to printing in the RECORD a certain telegram. It is not always that I indorse the action of everybody on the Democratic side, but I do indorse the action of the gentleman from Texas [Mr. BLANTON] in reference to the request to print in the RECORD that vile calumny upon the President of the United States. [Applause.] Such men as that man Lewis are responsible for the condition that confronts us to-day, and I hope that the legal department of this Nation will be able to hale him into a court of justice where he will be dealt with as his crime, in my judgment, requires that he be dealt with. I would have objected myself to the insertion in the RECORD of that arrogant, impudent, audacious tirade against the President of the United States if the gentleman from Texas had not objected.

Now, Mr. Speaker, gentlemen on both sides say there is no politics in this resolution. There is none. I am glad to know that there is no politics in it. I am glad to know, notwithstanding the telegram which was sought to be put into the RECORD here to-day, denouncing the President for what he has done, that every man on both sides of the aisle stands ready here and now to indorse and to approve what the President has done and what he is going to do. [Applause.] And I hope within the next few days the clouds which to-day hover over us will disappear, and that what threatened to be a national disaster will be averted through the activity of the one man whose matchless courage, great patriotism, and Americanism will bring order out of impending chaos, and that the law of this Nation will prevail, and the lawless, like Lewis, Foster, and others, will be placed where they will have time for reflection and repentance. [Applause.]

The SPEAKER. The time of the gentleman from Missouri has expired.

Mr. CLARK of Missouri. Mr. Speaker, I yield five minutes to the gentleman from North Carolina [Mr. KITCHIN].

The SPEAKER pro tempore (Mr. TILSON). The gentleman from North Carolina is recognized for five minutes.

Mr. KITCHIN. Mr. Speaker, I rise for the purpose of expressing my great happiness in seeing such unanimity of opinion on both sides of the Chamber with respect to the passage of this resolution. I was in favor of the Connally resolution; I am in favor of the Senate resolution. I favor either, and I favor both. Each has the same object, and I rejoice now that to-day, even if it is a little late, this House is going to show its courage and wisdom and patriotism in the passage of this Senate resolution.

It would have been much better to have passed some such resolution as the Connally or the Senate resolution earlier. We could not consider now the Connally resolution with appropriateness, for the reason that the strike begins to-night at 12 o'clock. The pending resolution which the Senate passed yesterday is substantially similar and has the same object in view, and if we were to consider and pass the Connally resolution to-day it would have to go back to the Senate, and the Senate would have to stop its proceedings and its discussion of the league of nations and then consider the resolution. It would then be too late. The strike would be on. I think the Committee on the Judiciary did the proper thing this morning in substituting this Senate resolution for the Connally resolution, and I think the distinguished gentleman from Wyoming [Mr. MONDELL] did the proper thing this morning in asking the unanimous consent of the House for the immediate consideration of the Senate resolution.

However, I do not want the House to understand that I approve the course of the gentleman from Wyoming or any gentleman in this House, Republican or Democrat, in not trying

long before to-day to get consideration by the House of some kind of a resolution to let the "walking delegates" and red, radical labor agitators and leaders of this country know that this House is behind the President in his wise and courageous stand [applause], and is behind any other constituted authority in the United States in its efforts to frustrate the conspiracy upon the part of the Lewises and the Fosters and the Fitzpatricks of this country against the very life of the Nation and its institutions. [Applause.]

This House has made a very serious mistake in not speaking its mind long before this. Earlier action might have had some effect in preventing the strike. But passage of this resolution now gives notice and warning to the patriotic people, in and out of labor organizations, that the time has come when they must take their stand with their Government and with its Constitution and its laws or with these Bolshevik leaders and their wild teachings and counsels. [Applause.] The choice must be made.

The gentleman from Iowa [Mr. TOWNER] was mistaken in saying that we asked the House to pass the Connally resolution. No such request was made. On last Tuesday and yesterday there was a request made for unanimous consent for this House to consider it, and that was objected to by the distinguished gentleman from Wyoming, the majority leader—not to pass it, but to give the House, to give all Republicans and all Democrats here a right to express their opinion on that resolution by their vote; and if that resolution was not worded properly, if it went too far or did not go far enough, the House could amend it. What I asked for, what we asked for, was an opportunity to consider it in the House, with the privilege of amendment if the House desired, so that we could send forth to the country the judgment and the intentions of this House upon the situation now confronting us. But we were denied that by the majority leader.

In conclusion let it be understood that neither the President's statement nor the statement of the Attorney General nor the Connally resolution nor the pending resolution affects or proposes to affect the right of labor, the right of the employees, individually or collectively, to quit work. This is not the issue involved in the present contest. The issue is, Will the Government and the constituted authorities throughout the country permit the Lewises, the Fosters, the Fitzpatricks, and other red, radical labor agitators and leaders to bring distress and disaster to the 110,000,000 American people? [Applause.]

The SPEAKER pro tempore. The time of the gentleman from North Carolina has expired.

Mr. CLARK of Missouri. Mr. Speaker, I should like to inquire how the time stands.

The SPEAKER pro tempore. The gentleman from Missouri has 5 minutes remaining and the gentleman from Wyoming has 10 minutes remaining.

Mr. MONDELL. I yield to the gentleman from New York [Mr. PLATT].

Mr. PLATT. Mr. Speaker, I heartily approve the passage of this resolution as giving decided and desirable emphasis to the fact that Congress unanimously stands with the President and pledges its full support for the enforcement of law in the emergency growing out of the threatened coal strike or any similar conspiracy against government or the welfare of the people, but I do not think it can be said that there was ever any question about how the membership of this House stood, or that there is any occasion for any display of partisanship in the matter. The majority leader, the gentleman from Wyoming [Mr. MONDELL], asked unanimous consent on Monday at the earliest moment for the insertion of the President's proclamation in the RECORD, with the statement that he fully and heartily approved it. And a little later, when the gentleman from Texas [Mr. CONNALLY] was speaking in favor of the introduction of a resolution somewhat similar to this, my colleague from New York [Mr. SNYDER] asked if there was a single Member of this House who was opposed to the sentiments expressed in the President's proclamation. The answer was that no such Member was known.

For my own part on Sunday, as soon as I had read the proclamation, I wrote a letter to the Secretary of the Treasury, then presiding at Cabinet meetings, expressing my satisfaction and approval of the stand of the President and of the Cabinet, and at the same time I wrote and mailed for publication in the newspaper of which I am the editor, the Poughkeepsie (N. Y.) Eagle-News, the following editorial:

#### COAL STRIKE UNLAWFUL.

Once more the country is behind President Wilson. Certain great labor unions, in control of radical leaders who have absolutely no regard for the welfare of the country or even of their own members, whom they exploit, are seeking to hold up the country and the Gov-



ernment, and the President has met them as they deserve to be met. Nine people out of ten are with him. The demands of these leaders are absolutely preposterous. To grant them would curtail greatly the output of coal at a time when every consideration, not only of patriotism but of common humanity and of the rights of other workers of the country, demands that the output shall be kept up and increased. Nearly every industry in the country depends upon coal, and if coal should go as high as these radical leaders want it to a considerable number of industries would be forced to close.

The arrogance of these labor leaders, who have refused all offers of negotiation or arbitration, is unprecedented, and the President points out that they have called this great strike or entered into this great conspiracy apparently "without taking any vote upon the specific proposition by the individual members of the United Mine Workers of America throughout the United States."

The President points out that this great conspiracy has been entered into at a time when "the war itself is still a fact, when the world is still in suspense as to negotiations for peace, when our troops are still being transported, and when their means for transport is still in urgent need for fuel." He does not directly say that the very fact that the treaty of peace is not yet ratified is what gives him the authority to declare the strike unlawful, but that is, of course, the truth. The fuel and food laws are still in force, and any conspiracy to prevent the production or distribution of a necessity is unlawful and the leaders can be arrested. No new laws are needed to give the President full power to handle the situation.

The threatened strike is not primarily a strike, but a part of the revolutionary program of the radical socialists, and it might as well be met now. Once entered upon there should be no further offers of compromise. Order should be rigidly maintained, and the right to work of those who want to work should be fully safeguarded. It may be safely said that the great majority of miners, who are making from \$5 to \$15 a day, are not entering upon the strike willingly, and will gladly resume work if they can be given protection.

Mr. MADDEN. I ask unanimous consent to extend my remarks in the Record.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MADDEN] asks unanimous consent to extend his remarks in the Record. Is there objection?

There was no objection.

Mr. CONNALLY. I make the same request.

Mr. MONDELL. I ask unanimous consent that all gentlemen have three legislative days in which to extend remarks on the subject of this resolution.

The SPEAKER pro tempore. The gentleman from Wyoming asks unanimous consent that all gentlemen have three legislative days in which to extend remarks on this resolution. Is there objection?

Mr. BLANTON. Reserving the right to object, will the gentleman have it understood that the privilege shall be extended to their own remarks?

Mr. MONDELL. To their own remarks and directly on the subject matter of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

Mr. MONDELL. Mr. Speaker, how much time have I remaining.

The SPEAKER pro tempore. The gentleman has nine minutes remaining.

Mr. MONDELL. I yield five minutes to the gentleman from Indiana [Mr. Wood].

Mr. WOOD of Indiana. Mr. Speaker and gentlemen of the House, this is no time for petty politics or attempts to get party advantage. This body was practically unanimous in standing behind the President during the trying days of the war. There is just as much, if not more, reason for our standing behind him now in this crisis, because the problem that we have confronting us is fraught with more danger to the American people, unless properly solved, than were those that confronted us during the war. [Applause.] I have had occasion to criticize the President of the United States in times past, sometimes pretty severely, but upon this occasion I commend him from the bottom of my heart that he had the courage to speak in behalf of the American people in language that all can understand. [Applause.]

It strikes me that if there ever was a time when the representatives of the people of the United States should stand in solid phalanx in behalf of constituted government and good order and in behalf of the best interests of all the people whom they represent it is now. [Applause.] It seems almost unthinkable that a few men in this country should attempt to destroy the fabric of the Government that means so much to all who live within its embrace, and that is the real purpose of those who are responsible for this situation. In the district from which I come there is a seething mass of economic and social unrest—enemies of our Government preaching its overthrow. There are in that district the greatest steel mills in the world, and I know that a very large, yea, the larger, per cent of the men who are affected by the steel strike now on are out against their will. I have letters coming to me every day from men who say that they had no complaint to make either with reference to wages or work-

ing conditions, but that they have been forced out against their will at the behest of some men who are seeking to destroy the land of opportunity for the laboring men and the best interests of the true laboring men, by those who are bent on destruction and who care nothing for the result except the destruction they may bring about. [Applause.] I hope that the representatives of the American people will stand fast in the discharge of their duty; that they will not only provide a way for solving this question that is immediately confronting us in this crisis, but that they will find a way to prevent its recurrence in the future. During the war there were more than 6,000 strikes in the United States. There are more than 300 strikes pending in this country to-day. The President and all constituted authority is appealing to all men and all women to produce and produce more. Yet, in the face of these facts, these agencies are not only interfering with production but are absolutely destroying that which has been produced. It strikes me that there must be some way whereby the American people, who have been equal to every emergency in the past, can solve these difficulties between the people who are interested, without the interference of those who have no interest save their own personal sinister interests, without resorting to the strike as a mediator. Waste, indescribable waste! It is impossible to calculate the great waste that has occurred by reason of the 6,000 strikes that we had during the war and by reason of the strikes that are now in existence. If this proposed coal strike should be carried into effect, and on top of it should come the firemen's strike that is also threatened, tying up all the railroads in the country, the misery that would result is beyond calculation. It can not be and it must not be. Some way must be found to avert it that will do exact justice to all concerned. The representatives of the American people, by sounding their voices at this time in support of the patriotic and humane position taken by the President of the United States, can say not only to the men who are asked to go out and destroy their own best interests, and the best interests of the people of the United States, but they can say to all the American people that we are standing here in unalterable opposition to this attempt against our institutions, and that neither the autocracy of labor nor the autocracy of capital shall stand in the way of the proper conduct of our Government, the very purpose of which is to provide protection for all the people without distinction as to class. [Applause.]

Mr. MONDELL. Mr. Speaker, I yield two minutes to the gentleman from Ohio [Mr. LONGWORTH].

Mr. LONGWORTH. Mr. Speaker, I rejoice that we are united here to-day, every man of us, in our purpose to give solemn assurance to the country that we are standing back of the President of the United States in this crisis. [Applause.] There is no politics in this matter. Our only differences here are as to the best way in which we can effectively state our support. Some gentlemen think that the Connally resolution most effectively states it. Others, among whom I am one, think that this resolution most effectively states it. The gentleman from Indiana [Mr. Wood] has just said that there are now 300 strikes prevailing in this country, but the Connally resolution refers to only one. In all of these strikes there may be menace to life, to liberty, and to property. Why not adopt the resolution which gives assurance to the country and to the world that this Congress will support in every case the President of the United States and this Government in their every effort to enforce law and order for the protection of life, liberty, and property in the United States of America? [Applause.]

Mr. CLARK of Missouri. Mr. Speaker, the Thomas resolution which just came over from the Senate and which we are now considering is in these words:

Whereas the enforcement of the law and the maintenance of order for the security of life and property and the protection of the individual citizen in the exercise of his constitutional rights is the first and paramount duty of the Government and must be at all times vigorously and effectively safeguarded by the use of every means essential to that end: Therefore be it

Resolved by the Senate (the House of Representatives concurring), That we hereby give the national administration and all others in authority the assurance of our constant, continuous, and unqualified support in the use of such constitutional and lawful means as may be necessary to meet the present industrial emergency and in vindicating the majesty and power of the Government in enforcing obedience to and respect for the Constitution and the laws and in fully protecting every citizen in the maintenance and exercise of his lawful rights and the observance of his lawful obligations.

Mr. Speaker and gentlemen, ever since I have been here I have observed that when it comes to a question of upholding the law and keeping the peace in this country there is very little difference, if any at all, between Democrats and Republicans. [Applause.] We are simply Americans and glory in the fact. The American people love liberty. No people were ever more jealous of it, but it is liberty founded on and regulated by law. [Ap-

plause.] The President of the United States is simply the greatest Executive in the land, and therefore this Congress indorses what he has done, in this particular, at any rate. [Applause.] There ought to have been no politics lugged in here. King Solomon says, "There is a season for every purpose under the sun," and when it comes time for politics I am in it as much as anybody else. [Laughter.] But this is not the time for political flouts and jeers.

Politics ought not to have been mentioned here. I have a theory of my own that when a man is inaugurated President of the United States he becomes instantanly the President of all of us. [Applause.] It does not make a bit of difference whether he is a Democrat or a Republican.

I was utterly amazed to hear the gentleman from Illinois [Mr. MADDEN] say that this is the only time the President of the United States ever mustered up courage enough to take a position on a great measure. The truth is that you Republicans and some Democrats have been lambasting the President for over six years because he exhibited too much courage in taking his positions. [Applause on the Democratic side.] I, like the gentleman from North Carolina [Mr. KITCHIN] and some others, think that if the resolution is going to be passed at all it should have been passed earlier, but nevertheless there is no doubt about what the people of the United States think, and we simply represent them. They have voiced their sentiments heretofore. It is a very poor time to be criticizing the President when he is sick in bed.

There are three parties to all these controversies, the capitalists, the labor unions, and the consumers. I will tell you something that some people do not seem to think about. There are about 4,000,000 labor-union men, as I understand it. I have helped them since I have been here in every reasonable and legitimate thing that they asked for, and I am going to continue it to the end. The laborer is worthy of his hire. Capital is entitled to a fair return on its investment. The consumers are entitled to be justly treated, not to be gouged or imposed upon or abused by anybody. [Applause.]

How many capitalists there are I do not know, and when a man begins to become a capitalist I do not know. I think if he has one dollar more than he has any need for he is, to that extent, a capitalist. There are, as I say, 4,000,000 labor-union men, but there are 110,000,000 consumers in this country. [Applause.] All three classes are interdependent. Without capital labor would be futile; without labor capital would be as useless as a painted ship on a painted sea; and without the consumers both of them would be in as sad case as was Othello, for their "occupation would be gone."

The capitalists are organized—I do not know whether by title or not. The laboring men are organized, but the consumers are not organized. But, my friends and fellow citizens, they can be organized. [Applause.] Then they will exercise supreme power in this land. They are beginning to be afraid that they are going to be ground between the upper and the nether millstones. I am in favor of this resolution because the President has done his duty, and he has done it fearlessly and well. [Applause.]

Mr. MONDELL. Mr. Speaker, how much time have I remaining?

The SPEAKER pro tempore. The gentleman has three minutes remaining.

Mr. MONDELL. Mr. Speaker, on Saturday evening last, from a sick bed, the President of the United States made a very important and emphatic statement relative to the impending coal strike. I took occasion on Monday morning, at the very first opportunity that was afforded, to ask unanimous consent to place that statement in the Record, and it was placed in the Record, with the strongest personal indorsement that I could give it. I think that indorsement reflected the sentiment of practically all the Members of the House on both sides.

I regret that in the discussion this morning some gentlemen on the Democratic side have seen fit to use their time not to indorse the action about to be taken but to complain that at some time in the past we had not taken such action as they desired. Curiously enough none of these gentlemen have up to this time taken any great pains to express their approval of the stand of the President.

I am glad that such expressions of complaint relating to our attitude did not come from the leaders on the other side. I am gratified beyond words that we stand united to-day in the support of the constitutional authorities of the land and behind them in the support of the Constitution and the laws. We shall as a Congress at all times give the President and all others in authority unqualified support in any proper constitutional action they may take in upholding the might and majesty of the law. [Applause.]

The SPEAKER pro tempore. The time of the gentleman has expired; all time has expired, and the question is on agreeing to the resolution.

Mr. CLARK of Missouri. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 267, nays 0, not voting 165, as follows:

## YEAS—267.

Alexander	Elston	Larsen	Rowe
Almon	Esch	Layton	Rubey
Anderson	Evans, Mont.	Lazaro	Rucker
Andrews, Nebr.	Evans, Nebr.	Lee, Ga.	Sabath
Anthony	Evans, Nev.	Linthicum	Sanders, Ind.
Aswell	Ferris	Loneragan	Sanders, La.
Ayres	Flood	Longworth	Sanford
Baer	Focht	McAndrews	Schall
Barbour	Foster	McArthur	Scott
Barkley	Freeman	McDuffie	Siegel
Bee	French	McFadden	Sinnott
Begg	Fuller, Ill.	McGlennon	Smith, Idaho
Benham	Gallagher	McLaughlin, Mich.	Smith, Mich.
Black	Garland	McPherson	Smithwick
Bland, Ind.	Garrett	MacCrate	Snyder
Bland, Mo.	Glynn	MacGregor	Stea gall
Blanton	Godwin, N. C.	Madden	Stedman
Box	Goodwin, Ark.	Major	Steenerson
Brand	Graham, Ill.	Mann, S. C.	Stephens, Ohio
Briggs	Green, Iowa	Mansfield	Stevenson
Brinson	Greene, Mass.	Mapes	Stiness
Brooks, Ill.	Greene, Vt.	Martin	Stoll
Brooks, Pa.	Griffin	Mays	Strong, Kans.
Browne	Hadley	Merritt	Strong, Pa.
Brumbaugh	Hamilton	Michener	Summers, Wash.
Buchanan	Hardy, Colo.	Miller	Summers, Tex.
Burdick	Harrison	Monahan, Wis.	Sweet
Burrighs	Hastings	Mondell	Tague
Butler	Haugen	Montague	Taylor, Colo.
Byrnes, S. C.	Hawley	Moore, Ohio	Taylor, Tenn.
Byrns, Tenn.	Hayden	Moore, Va.	Temple
Campbell, Pa.	Hays	Morgan	Thompson
Candler	Hernandez	Mott	Tilman
Cannon	Hersey	Neely	Tilson
Caraway	Hersman	Nelson, Mo.	Timberlake
Carss	Hickey	Nelson, Wis.	Towner
Carter	Hoch	Newton, Minn.	Upshaw
Chindblom	Holland	Nichols, Mich.	Vaile
Christopherson	Houghton	No an	Vestal
Clark, Fla.	Hudspeth	O'Connor	Vinson
Clark, Mo.	Hull, Iowa	Oldfield	Volstead
Classon	Hull, Tenn.	Oliver	Ward
Cleary	Humphreys	Olney	Wason
Coady	Husted	Osborne	Watkins
Connally	Igoe	Overstreet	Watson, Va.
Cooper	Jacoway	Padgett	Weaver
Crago	James	Parker	Webb
Cramton	Jeffers	Parrish	Webster
Crisp	Johnson, Miss.	Platt	Wel ing
Currie, Mich.	Johnson, Wash.	Porter	Welty
Curry, Calif.	Jones, Tex.	Pou	Whaley
Dale	Juhl	Purnell	Wheeler
Davis, Tenn.	Kahn	Quin	White, Kans.
Denison	Kearns	Rainey, Ala.	White, Me
Dent	Keller	Raker	Williams
Dickinson, Mo.	Kelly, Pa.	Ramseyer	Wilson, Ill.
Dickinson, Iowa	Kettner	Randall, Calif.	Wilson, La.
Domink	King	Randall, Wis.	Wingo
Dowell	Kinsaid	Rayburn	Winslow
Dunbar	Kitchin	Reavis	Wood, Ind.
Dunn	Klecza	Reed, W. Va.	Woods, Va.
Dupre	Knutson	Rhodes	Wright
Eagan	Kraus	Ricketts	Yates
Echols	Kreider	Riddick	Young, N. Dak.
Edmonds	Lampert	Robinson, N. C.	Young, Tex.
Elliott	Lanham	Romjue	Zihlman
Ellsworth	Lankford	Rose	

## NAYS—0.

## NOT VOTING—165.

Ackerman	Davis, Minn.	Hamill	McClintic
Andrews, Md.	Dempsey	Hardy, Tex.	McCulloch
Ashbrook	Dewalt	Haskell	McKenzie
Babka	Donovan	Heflin	McKeown
Bacharach	Doelling	Hicks	McKiniry
Bankhead	Doremus	Hill	McKinley
Bell	Doughton	Howard	McLane
Benson	Drane	Huddleston	McLaughlin, Nebr.
Blackmon	Dyer	Hulings	Magee
Bland, Va.	Eagle	Hut-hinson	Maher
Boies	Emerson	Ireland	Martin, Ill.
Booher	Fairfield	Johnson, Ky.	Mason
Bowers	Fess	Johnson, S. Dak.	Mead
Britten	Fields	Johnston, N. Y.	Minahan, N. J.
Browning	Fisher	Jones, Pa.	Moore
Burke	Fordney	Kelley, Mich.	Mooney
Caldwell	Frear	Kendall	Moore, Pa.
Campbell, Kans.	Fuller, Mass.	Kennedy, Iowa	Moore, Ind.
Cantrill	Gallivan	Kennedy, R. I.	Morin
Carew	Gandy	Kiess	Mudd
Casey	Ganly	Kincheloe	Murphy
Cole	Gard	LaGuardia	Newton, Mo.
Collier	Garner	Langley	Nichols, S. C.
Copley	Goldfogle	Lea, Calif.	O'Connell
Costello	Good	Lehlbach	Ogden
Crowther	Goodall	Leshner	Paige
Cullen	Goodykoontz	Little	Park
Dallinger	Gould	Luce	Pell
Darrow	Graham, Pa.	Lufkin	Peters
Davey	Griest	Luhning	Phelan



Radcliffe	Sanders, N. Y.	Smith, Ill.	Vare
Rainey, H. T.	Saunders, Va.	Smith, N. Y.	Venable
Rainey, J. W.	Scully	Snell	Voigt
Ramsey	Sears	Steele	Walsh
Reber	Sells	Stephens, Miss.	Walters
Reed, N. Y.	Sherwood	Sullivan	Watson, Pa.
Riordan	Shreve	Swope	Wilson, Pa.
Robison, Ky.	Sims	Taylor, Ark.	Wise
Rodenberg	Sinclair	Thomas	Woodyard
Rogers	Sisson	Tincher	
Rouse	Slemp	Tinkham	
Rowan	Small	Treadway	

So the resolution was agreed to.  
The Clerk announced the following pairs:  
Until further notice:  
Mr. TREADWAY with Mr. BOOHER.  
Mr. VOIGT with Mr. HARDY of Texas.  
Mr. SNYDER with Mr. CARTER.  
Mr. GRIEST with Mr. MEAD.  
Mr. WATSON of Pennsylvania with Mr. BLACKMON.  
Mr. LUCE with Mr. VENABLE.  
Mr. LANGLEY with Mr. FIELDS.  
Mr. ROBISON of Kentucky with Mr. JOHNSON of Kentucky.  
Mr. MAGEE with Mr. THOMAS.  
Mr. TINCHER with Mr. DOUGHTON.  
Mr. BOIES with Mr. SEARS.  
Mr. GOOD with Mr. HENRY T. RAINY.  
Mr. GOODYKOONTZ with Mr. PHELAN.  
Mr. ACKERMAN with Mr. WISE.  
Mr. LA GUARDIA with Mr. MCCLINTIC.  
Mr. ANDREWS of Maryland with Mr. WILSON of Pennsylvania.  
Mr. BACHARACH with Mr. LESHNER.  
Mr. BOWERS with Mr. TAYLOR of Arkansas.  
Mr. LEHLBACH with Mr. LEA of California.  
Mr. LITTLE with Mr. JOHNSTON of New York.  
Mr. BRITTEN with Mr. SULLIVAN.  
Mr. GRAHAM of Pennsylvania with Mr. PELL.  
Mr. HICKS with Mr. PARK.  
Mr. HULINGS with Mr. O'CONNELL.  
Mr. LUHRING with Mr. HUBLESTON.  
Mr. SHREVE with Mr. CASEY.  
Mr. MCCULLOCH with Mr. HOWARD.  
Mr. BROWNING with Mr. STEPHENS of Mississippi.  
Mr. CAMPBELL of Kansas with Mr. STEELE.  
Mr. HUTCHINSON with Mr. NICHOLLS of South Carolina.  
Mr. IRELAND with Mr. MOONEY.  
Mr. JOHNSON of South Dakota with Mr. MOON.  
Mr. JONES of Pennsylvania with Mr. MINAHAN of New Jersey.  
Mr. MCKENZIE with Mr. HEFLIN.  
Mr. MCKINLEY with Mr. HAMILL.  
Mr. COSTELLO with Mr. SMITH of New York.  
Mr. SLEMP with Mr. CAREW.  
Mr. CANTRILL with Mr. SMITH of Illinois.  
Mr. McLAUGHLIN of Nebraska with Mr. GOLDFOGLE.  
Mr. CROWTHER with Mr. SMALL.  
Mr. DARROW with Mr. SISSON.  
Mr. DAVIS of Minnesota with Mr. SIMS.  
Mr. SNELL with Mr. CALDWELL.  
Mr. DEMPSEY with Mr. SHERWOOD.  
Mr. MANN of Illinois with Mr. GARNER.  
Mr. MOORE of Pennsylvania with Mr. GARD.  
Mr. MORIN with Mr. GANLY.  
Mr. MUDD with Mr. GANDY.  
Mr. MURPHY with Mr. GALLIVAN.  
Mr. SWOPE with Mr. BLAND of Virginia.  
Mr. TINKHAM with Mr. BENSON.  
Mr. VARE with Mr. BELL.  
Mr. WALSH with Mr. BANKHEAD.  
Mr. NEWTON of Missouri with Mr. FISHER.  
Mr. OGDEN with Mr. EAGLE.  
Mr. PAIGE with Mr. DRANE.  
Mr. KELLEY of Michigan with Mr. MAHER.  
Mr. PETERS with Mr. DOREMUS.  
Mr. EMERSON with Mr. SCULLY.  
Mr. FAIRFIELD with Mr. SAUNDERS of Virginia.  
Mr. FESS with Mr. ROWAN.  
Mr. KENNEDY of Iowa with Mr. McLANE.  
Mr. FORDNEY with Mr. ROUSE.  
Mr. FREAR with Mr. RIORDAN.  
Mr. FULLER of Massachusetts with Mr. JOHN W. RAINY.  
Mr. KENNEDY of Rhode Island with Mr. MCKINRY.  
Mr. KISS with Mr. MCKEOWN.  
Mr. RADCLIFFE with Mr. DOOLING.  
Mr. RAMSEY with Mr. DONOVAN.  
Mr. RODENBERG with Mr. DEWALT.  
Mr. WALTERS with Mr. BABKA.

Mr. WOODYARD with Mr. ASHBROOK.  
Mr. ROGERS with Mr. DAVEY.  
Mr. SANDERS of New York with Mr. CULLEN.  
Mr. SNYDER. Mr. Speaker, I have a pair with the gentleman from Oklahoma, Mr. CARTER, to be effective beginning tomorrow. I desire to be recorded "yea," and have so voted; and I am quite sure that the gentleman from Oklahoma desires also to be recorded "yea."

The result of the vote was announced as above recorded.

#### ARRESTS ON DEPORTATION WARRANTS.

Mr. JOHNSON of Washington. Mr. Speaker, by direction of the Committee on Immigration and Naturalization, I call up House resolution 365, which I send to the Clerk's desk.

The SPEAKER pro tempore. The gentleman from Washington calls up a privileged resolution, which the Clerk will report. The Clerk read as follows:

#### House resolution 365.

*Resolved*, That the Secretary of Labor be, and he is hereby, requested to report to the House of Representatives the number of arrests on deportation warrants—

(a) Under authority of that provision of section 19 of the act of February 5, 1917, which provides for deportation of aliens who shall be found advocating or teaching anarchy, the unlawful destruction of property, or the overthrow by force or violence of the Government of the United States; and

(b) Under authority of the provisions of the act of October 16, 1918. Such report by the Secretary of Labor to include a statement showing the number of arrests made and the causes therefor; the number of deportations effected and the causes therefor; the number of cases in which deportation was defeated, and the causes or grounds upon which deportation proceedings were undertaken.

Mr. JOHNSON of Washington. Mr. Speaker, this resolution is in the form necessary to make it a privileged resolution. It is not unfriendly to the Department of Labor. It must not be presumed that the Labor Department is withholding the information which is requested for the information of the Members of the House for the information of the committee which reports the resolution, the Committee on Naturalization and Immigration. It will be noticed that the resolution called for the numbers of persons arrested under certain clauses of the immigration act of February 5, 1917, and under the provisions of the act of October 16, 1918, which was a broadening of the clauses of the first-named immigration act. Many Members of the House have been asked by their constituents as to why numerous arrests have been made of aliens under these provisions of the law, and why, after these aliens have been started toward actual deportation, they have not been deported. Now, it has become the belief of your committee that there is some difficulty, not in the fault of this particular department, but perhaps through the failure of certain laws to apply, or perhaps the laws not permitting sufficient coordination between the Department of Justice and this department. What is the difficulty? Are the clauses of the immigration acts mentioned in the resolution not strong enough? Are we in the law asking the Department of Labor to do more than it has the machinery to do or to do that it has not the funds with which to do? We are not asking in this resolution for answers to these questions which I have propounded, but we are asking for certain facts to assist the committee in coming to conclusions.

Mr. SABATH. Will the gentleman yield?

Mr. JOHNSON of Washington. With pleasure.

Mr. SABATH. Could not the committee secure this information from the Secretary? Does not the gentleman believe that the committee could get this information without the passage of this resolution?

Mr. JOHNSON of Washington. I will say to the gentleman I have not made a direct written request for the information in this particular form. The committee has made requests, has received replies, has heard witnesses—although the Secretary has not been asked to appear—but has been unable to secure the exact facts, and that is what we want. I feel that we can save the time of the Secretary and of the committee by requesting a direct, concise, official report.

Mr. SABATH. The fact is this, that I do not wish to place the Secretary of Labor in the position that he has refused the committee—

Mr. JOHNSON of Washington. Oh, no.

Mr. SABATH. Or any Member this information.

Mr. JOHNSON of Washington. I think the Secretary will be glad to give the information. I think he will be glad to elaborate the details to the committee soon after we have had a basic statement. Remember, the Committee on Immigration and Naturalization is not an appropriating committee, and, for the information of the House, let me say that if it is disclosed that the Department of Labor, which has the authority to enforce the carrying out of the laws concerning immigration and to

make deportations, is without sufficient machinery actually to do the work, or without sufficient appropriation to do a greatly increasing work, we will be able to show that fact by this inquiry. Or if court convictions are necessary to secure certain deportations, we may desire to recommend amendment of the law.

Mr. RAKER. Will the gentleman yield?

Mr. JOHNSON of Washington. I will.

Mr. RAKER. The resolution requires that the number of arrests on deportation warrants under both of those acts named be furnished. Now, there were a number of arrests and deportations started, but the gentleman's resolution will not get the number which were actually deported, if any. Does not the gentleman believe that he ought to amend, in line 3, after the word "warrants," by adding "and the number deported"? The gentleman will see we will not get the deportations—only the number of arrests.

Mr. JOHNSON of Washington. The gentleman will find that resolution calls in another place for the number of cases in which deportation was defeated and the causes therefor and the grounds upon which deportation proceedings were undertaken. Now, by the process of elimination we will discover—

Mr. RAKER. Well, I do not believe there will be an objection if the gentleman will insert at the end of line 3 "the number deported," and then you will get the number arrested and the number deported and the number now remaining upon which there is a contest.

Mr. JOHNSON of Washington. The only question of putting that in is that there is no desire to add to the labor of the department. We do not care for all deportation cases, but only certain kinds of cases which are specifically mentioned.

Mr. RAKER. Under these particular acts for these offenses named?

Mr. JOHNSON of Washington. Yes.

Mr. GALLAGHER. Will the gentleman yield?

Mr. JOHNSON of Washington. I will.

Mr. GALLAGHER. Does not the language in line 14, "the number of deportations affected," cover it?

Mr. RAKER. That is another subdivision, another law.

Mr. JOHNSON of Washington. I think the words quoted cover it. If the gentleman will read the bill carefully, he will see that "a" and "b" are mentioned, and that then "a" and "b" are included in the paragraph, beginning with line 12. That covers all. If there are no further questions, I ask for a vote on the resolution.

The question was taken, and the resolution was agreed to.

BRIDGE ACROSS THE MISSOURI RIVER BETWEEN YANKTON COUNTY, S. DAK., AND CEDAR COUNTY, NEBR.

Mr. CHRISTOPHERSON. Mr. Speaker, I wish to make a request for unanimous consent to take up at this time the bill S. 2883, which is a bridge bill authorizing the construction of a bridge across the Missouri River between Yankton County, S. Dak., and Cedar County, Nebr. The reason for asking this action at this time is that the parties there have assurance that the Meridian Highway will be laid out through there if this bridge is constructed. They have made all arrangements for the construction of the bridge, and now there should be final action on the bill in the House.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. EDMONDS. Mr. Speaker, reserving the right to object, how long will this take?

Mr. CHRISTOPHERSON. It will take two minutes, not over that.

Mr. EDMONDS. If it will not take any longer, I shall not object, but we have been waiting all day to get in on the floor.

The SPEAKER pro tempore. Is there objection?

Mr. SANFORD. Mr. Speaker, reserving the right to object, does the resolution have the approval of the War Department?

Mr. CHRISTOPHERSON. Yes; and the report of the Committee on Interstate and Foreign Commerce.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none.

The Clerk read as follows:

An act (S. 2883) authorizing the Meridian Highway Bridge Co., a corporation, to construct and maintain a bridge or bridges and approaches thereto across the Missouri River between Yankton County, S. Dak., and Cedar County, Nebr.

*Be it enacted, etc.,* That the Meridian Highway Bridge Co., a corporation organized under the laws of the State of South Dakota, its successors and assigns, be, and they are hereby, authorized to construct, maintain, and operate a bridge or bridges and approaches thereto across the Missouri River at a point or points suitable to the interest of navigation, in section 18, township 93, range 55 west, or section 13, township 93, range 56 west, Yankton County, S. Dak., or to the shore opposite thereto at a point in sections 11 or 12, township

33 north, range 1 west, Cedar County, Nebr., in accordance with the provisions of an act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The bill was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. CHRISTOPHERSON, a motion to reconsider the vote by which the bill was passed was laid on the table.

#### BILLS ON THE PRIVATE CALENDAR.

Mr. EDMONDS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House for the consideration of bills upon the Private Calendar.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House for the consideration of bills on the Private Calendar, with Mr. LONGWORTH in the chair.

The CHAIRMAN. The House is in Committee of the Whole House for the consideration of bills on the Private Calendar.

Mr. EDMONDS. Mr. Chairman, I ask unanimous consent that the bills be considered in the committee in the regular order on the calendar.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. EDMONDS] asks unanimous consent that the bills may be taken up in the regular order as they appear on the calendar. Is there objection? [After a pause.] The Chair hears none.

#### CLEVELAND TRINIDAD PAVING CO.

Mr. EDMONDS. Mr. Chairman, I call up for consideration the bill (H. R. 5238) for the relief of the Cleveland Trinidad Paving Co.

This bill has been up twice, but owing to the absence of the gentleman from Ohio [Mr. EMERSON], whom I do not see here now, I would suggest that it be passed over without prejudice.

The CHAIRMAN. The gentleman from Pennsylvania asks unanimous consent that the bill be passed without prejudice. Is there objection? [After a pause.] The Chair hears none.

#### CHANGE OF NAME OF STEAMER.

The next business on the Private Calendar was the bill (H. R. 6857) authorizing the change of the name of the steamer *Charlotte Graveruet Breitung* to *T. K. Maher*.

Mr. EDMONDS. I ask that the bill be read, Mr. Chairman.

The bill was read as follows:

*Be it enacted, etc.,* That the Commissioner of Navigation is hereby authorized and directed, upon the application of the owner, the Morrow Steamship Co., of Mentor, Lake County, Ohio, to change the name of the steamer *Charlotte Graveruet Breitung*, official No. 27665, to the *T. K. Maher*.

Mr. EDMONDS. Mr. Chairman, it is just the ordinary procedure to change the name of a steamer before the bill that passed a week ago becomes a law. I ask that the bill be laid aside with a favorable recommendation.

Mr. VAILE. Mr. Chairman, reserving the right to object, does this not also involve the changing of the sex of the steamer?

Mr. EDMONDS. The gentleman well knows that a steamer is always a "she."

Mr. BLAND of Indiana. Mr. Chairman, a parliamentary inquiry. How much debate is allowed on this bill?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. EDMONDS] is entitled to an hour.

Mr. BLAND of Indiana. And is all the debate confined to the bill?

The CHAIRMAN. The debate is confined to the bill under the rules.

Mr. BLAND of Indiana. Does the Chair state that the debate is confined to the bill under the rule?

The CHAIRMAN. The Chair thinks that as to bills on the Private Calendar debate is confined to the bill. The question is on the motion of the gentleman from Pennsylvania [Mr. EDMONDS] to lay the bill aside with a favorable recommendation.

The motion was agreed to.

#### FAXON, HORTON & GALLAGHER, AND OTHERS.

The next business on the Private Calendar was the bill (H. R. 6377) for the relief of Faxon, Horton & Gallagher; Long Bros. Grocery Co.; A. Rieger; Rothenberg & Schloss; Ryley, Wilson & Co.; and Van Noy News Co.

The bill was read as follows.

*Be it enacted, etc.,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Faxon, Horton & Gallagher the sum of \$888; to Long Bros. Grocery Co. the sum of \$197; to A. Rieger the sum of \$327; to Rothenberg & Schloss the sum of \$441; to Ryley, Wilson & Co. the sum of \$466; and to Van Noy News Co. the sum of \$866; said sums being in full payment of the value of United States internal-revenue stamps destroyed by flood, as shown by the findings of the Court of Claims, reported in Senate Document No. 642,



Sixty-fourth Congress, second session; and a sum sufficient for said purposes is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. EDMONDS. Mr. Chairman, I am going to let the gentleman from Pennsylvania [Mr. KELLY] explain this bill, as he has examined it thoroughly. I will yield to him such time as he may need for that explanation.

Mr. BLANTON. In that connection, will the gentleman yield to me to ask some questions?

Mr. KELLY of Pennsylvania. I would like to make a statement on the bill first.

Mr. BLANTON. I think, probably, with the suggestion I will make, the opposition heretofore had on the part of the minority will be withdrawn.

Mr. KELLY of Pennsylvania. I will make a brief statement, and then the gentleman from Missouri [Mr. BLAND] will be glad to give a further explanation.

This bill has been before the Committee on Claims a number of times and favorably reported, but never has been acted upon in the House. It provides for the payment of certain sums to various firms located in Kansas City, Mo. The matter was referred some years ago to the Court of Claims, and a finding of fact was made, and upon that finding the committee has based its action.

Now, these different firms—Faxon, Horton & Gallagher; Long Bros. Grocery Co.; A. Rieger; Rothenberg & Schloss; Ryley, Wilson & Co.; and the Van Noy News Co.—were all in business and operating in 1903 in Kansas City at the time of a great flood which lasted some three days and caused a great deal of destruction. During that flood their warehouses and stores were flooded and their property destroyed. Amongst this property there was a number of caddies and boxes of cigars, tobacco, cigarettes, and so forth, each one bearing internal revenue stamps, and upon the loss of the stamps, properly vouched for and identified, these different firms made claim for compensation on the ground that the stamps had been destroyed and that no value had been received from them. The Court of Claims in their finding of fact stated that the firms were in business at the time, and the following statement was made:

II. On May 31, 1903, and for several days thereafter a great flood occurred in the Missouri River at Kansas City, Mo., which overflowed and destroyed a large quantity of cigars, cigarettes, tobacco, and snuff belonging to all of the above-named claimants and destroyed the United States internal-revenue stamps attached to the boxes and packages of cigars, cigarettes, tobacco, and snuff. The value of the internal-revenue stamps so destroyed on the boxes and packages aforesaid which belonged to Faxon, Horton & Gallagher was \$888. The value of the said stamps on boxes and packages belonging to Long Bros. Grocery Co. was \$197. The value of said stamps on boxes and packages belonging to A. Rieger was \$327. The value of said stamps on boxes and packages belonging to Rothenberg & Schloss was \$441. The value of said stamps on boxes and packages belonging to Ryley, Wilson & Co. was \$466. The value of said stamps on boxes and packages belonging to the Van Noy News Co. was \$866. The value of all of said stamps so destroyed has not been paid to any of these claimants. These internal-revenue stamps had been attached to the boxes and packages of cigars, cigarettes, tobacco, and snuff by the manufacturers thereof and not by the claimants.

III. Claims for pay for the value of said stamps were made by all of the aforesaid claimants to the Commissioner of Internal Revenue, Treasury Department, directly after said loss, but were disallowed for want of authority of law to pay the same. Said loss was entirely without fault or neglect of all of the said claimants.

#### CONCLUSION.

Upon the foregoing findings of fact the court concludes that these claimants named in the first finding have neither legal nor equitable claims against the United States and any payment thereof rests in the bounty of Congress.

Mr. Chairman, the committee went thoroughly into the case and into this finding of fact, and considered that compensation was due these claimants, and that the statement of the court, where it says that "neither legal nor equitable claims against the United States" are found, simply refers to the legal technicality of a claim resting against the United States Government for the loss of these internal-revenue stamps. The Claims Committee has wider authority than strict law and strict legal interpretation, and is empowered to bring in what it considers fair, reasonable, and just findings on these bills. In this case these internal-revenue stamps were sold for a certain purpose, which was that the manufacturer thereby secured the right to sell these goods, and the dealers thereby secured the right to sell them. Now, having never served that purpose, and their loss being established with proper identification, it is just and fair to recompense these dealers for the amount.

Mr. BLACK. Will the gentleman yield?

Mr. KELLY of Pennsylvania. I yield.

Mr. BLACK. The gentleman, of course, recognizes that in the payment of taxes on tobacco, cigars, and snuff the tax is an accrued, settled liability when the stamp is attached to the

package. Now, the gentleman does not contend, does he, that these merchants who had bought from the manufacturers had ever paid any sort of tax on these particular commodities? And, therefore, I am at a loss to understand how the gentleman thinks the Federal Government can entertain either a legal or an equitable claim to repay taxes which it has collected, to some one who in no way paid the tax.

Mr. KELLY of Pennsylvania. I want to answer the question, Mr. Chairman, and the gentleman from Missouri [Mr. BLAND] will give further information later. We do contend that the purpose for which these stamps were sold was well known and specific; that that purpose was to give to the manufacturer and the retailer or the wholesaler the right to vend those products; that it was the intent of Congress to impose an internal-revenue tax upon dealers only where the goods are actually used in trade. We contend that those stamps have not served that purpose, and that there was never any opportunity for them to serve that purpose. These stamps have no great intrinsic value. They are only paper evidence that a tax on commercial transactions has been paid.

Mr. BLACK. Mr. Chairman, will the gentleman yield further?

If your premise is correct, does it not follow that in every fire that we might have in this country where tobacco and snuff and cigars are not insured and the commodities are destroyed with the stamps on them, the Government of the United States would just as legally and just as equitably and just as morally be bound to refund that tax as it would be if the commodities were destroyed by flood, and we would be confronted with an interminable amount of such claims if we once recognized a factor of that kind?

Mr. KELLY of Pennsylvania. The gentleman understands that when bank notes, for instance, issued under the authority of the United States, are destroyed by fire or in any way mutilated beyond all use, all that it is necessary to do is to send back the fragments of those bills or bank notes and the amount will be refunded in new bills. Why is that? Simply because the money did not serve the purpose for which it was issued. Its destruction meant that it was out of circulation. The Government desires to go on record as being willing to pay that obligation.

Now, the same thing is true in this case. These stamps are issued for the purpose of permitting the sale of tobacco, cigars, cigarettes, and so forth. They were not so used, and therefore we contend that it is equitable and just and reasonable to return the amount of money that was paid for those stamps.

Mr. BLACK. If they are issued for a purpose, do they not serve that purpose when they are attached to the original package and the tax thereby is paid?

Mr. KELLY of Pennsylvania. Absolutely not. The purpose is to permit the sale of these goods, and until they are sold there has been no advantage whatever derived. The Government is therefore in the position of taking money from certain citizens without rendering any service therefor.

Mr. CHINDBLOM. Mr. Chairman, will the gentleman yield?

Mr. KELLY of Pennsylvania. Yes.

Mr. CHINDBLOM. Who bought these revenue stamps and affixed them to the packages?

Mr. KELLY of Pennsylvania. The finding of fact shows that they were bought by the manufacturers and affixed to the packages.

Mr. CHINDBLOM. They were not bought by these claimants?

Mr. KELLY of Pennsylvania. They were bought by these claimants in effect, though affixed by the manufacturer, because the claimants paid for them.

Mr. BAER. Mr. Chairman, will the gentleman yield?

Mr. KELLY of Pennsylvania. Yes.

Mr. BAER. Take an instance like this: In our country we have a hailstorm once in a while. If the hail comes down and wipes the stamps off a cigar box could the owner bring in a claim and say that it did not subserve its purpose?

Mr. KELLY of Pennsylvania. That is a far-fetched case.

Mr. BAER. If you would take into account losses of this kind on account of rain or fire or hail, as the gentleman from Texas [Mr. BLACK] suggests, we would have thousands of claims.

Mr. KELLY of Pennsylvania. If it can be proved that these revenue stamps have been destroyed without having served their purpose, and are properly identified, I think the money should be returned. The committee has acted upon that principle several times.

Mr. BLAND of Missouri rose.

Mr. KELLY of Pennsylvania. I yield to the gentleman from Missouri.

Mr. BLAND of Missouri. Mr. Chairman and gentlemen of the committee, before I enter into the merits of this case, I want to call attention to the decision—

Mr. BLANTON. Mr. Chairman, will the gentleman yield to me for a moment?

Mr. BLAND of Missouri. Yes.

Mr. BLANTON. With regard to this claim—

Mr. EDMONDS. Mr. Chairman, I believe I have charge of the time. I understood the gentleman from Missouri [Mr. BLAND] wanted to ask a question. But I will yield to the gentleman from Texas.

Mr. BLANTON. I would like to ask a question or two of the gentleman from Missouri.

Mr. EDMONDS. Then I will yield to the gentleman from Missouri such time as he needs to explain the bill.

Mr. BLANTON. I will state that during the Sixty-fifth Congress, when a member of the Committee on Claims, I filed a minority report against this claim—being the document read by the gentleman from Illinois [Mr. MADDEN] objecting—upon the ground that if we allowed this claim, as suggested by my colleague from Texas [Mr. BLACK], every time a person had his house burned, if perhaps he had in it Liberty bonds which he could not identify by number, or prove the existence of by evidence extraneous of his own testimony; every time a person had postage stamps destroyed in his store or in his private home; or every time a person had this or that thing connected with the Government, documentary stamps of all kinds destroyed, he could come to Congress and ask to be reimbursed, and we would have to rely wholly upon his own testimony, and that would open up such an avenue for fraud and a great flood of cases that it ought not to be the policy of Congress to recognize a claim of that kind. I went into a lengthy discussion of that question in the minority report. The gentleman from Missouri [Mr. BLAND], after learning of that minority report, assures me that he has evidence of the fact and that he is able to furnish both the committee and the House with proof of the fact that these particular stamps were identified, were seen and identified in their damaged condition after loss, by Government agents who passed upon this matter; that they were identified to the extent of ascertaining the amount found to be due by the Court of Claims. If that is the case, it meets with one objection raised in the minority report.

But I want to say this, that there ought not to be a policy established by Congress whereby every time a person loses stamps or bonds or war-saving certificates, unless they can be absolutely identified by number or by evidence submitted to a Government official, so that the Government side of the case can be heard and determined—it ought not to be the policy of Congress to allow them. But where they can identify them by number, for instance, as might be the case where you would lose by fire or water a thousand-dollar Liberty bond, if you can establish the number and ownership of that bond and identify it beyond a question of doubt, then the Secretary of the Treasury should allow the claim and issue a duplicate bond in lieu thereof.

Mr. BAER. Mr. Chairman, will the gentleman yield there?

Mr. BLANTON. And it would not require any act on the part of Congress.

Mr. BAER. Suppose a man found this bond with a certain number?

Mr. BLANTON. I mean where the bond is destroyed by fire or water, not when it is merely lost; because when it is lost, and comes into the possession of the finder, it ipso facto comes into his hands in such a way that he can go to any bank and cash it, or sell it to any private individual. Therefore I say that ought to be the policy of the House, and we ought not to establish any other policy, as it would be a dangerous one.

Mr. BLAND of Missouri. Mr. Chairman, before discussing the merits of this bill, I wish to direct the attention of the House to the decision of the Supreme Court of the United States in the case of the United States v. American Tobacco Co. (166 U. S., 468). If I am incorrect in my understanding of the proposition of the gentleman from Texas [Mr. BLACK], I hope that he will correct me. My understanding of his proposition is that the moment the stamps were affixed to the boxes they had served their purpose, and that if they were subsequently destroyed there can be no recovery against the Government.

Mr. BLACK. And this other proposition, that when they go into the hands of a third party that third party is not the taxpayer, and he has no right to be subrogated to whatever other right the manufacturer may have had.

Mr. BLAND of Missouri. In answer to that, the purpose is to tax the transaction until it passes into the hands of the consumer and the stamps have been finally used. After that there could be no recovery. Or if these stamps were stolen they might go into use and serve the purpose for which issued, in which case

there could be no recovery. But here the stamps were purchased by the manufacturer, attached to the boxes, and the sale made to the wholesaler. When the goods were sold to the wholesaler he paid the price of the stamps, because necessarily they were carried into the price of the goods. I do not think there can be any denial of the proposition that wherever a stamp tax is imposed the manufacturer carries the price of the stamps into the price of the goods that the wholesaler pays him.

Now, I come back to this case of the United States against the American Tobacco Co. The syllabus is:

The tobacco company purchased from an internal-revenue officer of the United States revenue stamps to the amount of \$4,100.10, to be put upon its tobacco as manufactured. April 2, 1893, its factory in New York and all the contents were destroyed by fire. Among the contents were the stamps so purchased. Of these, stamps to the value of \$1,356.63 had not been used and stamps to the value of \$2,743.47 had been put upon packages of tobacco which were still in the factory, unsold.

So that the stamps were attached to the packages of tobacco, that is, some of them, and some of them had not been attached.

Under section 3426 of the Revised Statutes it is declared that—

The Commissioner of Internal Revenue may, upon receipt of satisfactory evidence of the facts, make allowance for or redeem such of the stamps issued under the provisions of this title, or of any internal-revenue act, as may have been spoiled, destroyed, or rendered useless or unfit for the purpose intended.

Let me call attention to the language of the Supreme Court in discussing the principle involved in that case. The Supreme Court declared:

The purpose of the statute was to have the Government reimburse the person who had bought and paid for internal-revenue stamps which had been destroyed under the circumstances mentioned in the statute before they had been used. To make such reimbursement would be no loss to the Government, while to retain the amount paid would be highly inequitable. The Government recognized this fact by the passage of the statute in question. \* \* \* The tax was laid upon sales of tobacco, and the stamps were resorted to as a convenient means of collecting the tax on such sales. Of course, if no sales of packages or tobacco took place upon which the stamps might be affixed, no tax had become due to the Government, and therefore if after the purchase of the stamps they were destroyed by fire the purpose of their purchase was frustrated and the Government was not entitled, upon any equitable ground, to retain the money paid for the stamps.

Further, the Supreme Court says—

Where the stamps have been destroyed under the circumstances detailed in this case, and those who paid for them apply to the Government to be reimbursed for their value, what materiality is there in the fact that the applicant has been paid the value of such stamps by an insurance company under and by virtue of a separate contract made with that company on the part of the claimant upon good consideration? \* \* \* The Government loses nothing by payment in such case. It simply repays money which it has no equitable right to retain.

So, I say, the Government loses nothing by payment in this case. The amount simply represents money which it has no equitable right to retain.

Let me announce my theory in this case. The purpose was to tax a transaction from which a profit will be derived on reaching the ultimate consumer of the article taxed. The manufacturer pays the tax, the stamps are attached to the box. It has not reached the consumer. It has not reached the use intended for the article itself. It is transferred only to the wholesaler, who pays the tax. He in turn sells to the retailer; but when the article is sold and passed into consumption and is used, then the tax really attaches. The profit comes into the transaction and the stamp should be destroyed.

These gentlemen paid the tax upon this tobacco because it was charged up by the manufacturer, and if the manufacturer can secure a refund after he has attached the stamps to the box is it not equally equitable and just that the wholesaler who paid that tax should likewise secure the refund from the Government? The Government pays him nothing and loses nothing.

Mr. BLACK. Now, will the gentleman yield?

Mr. BLAND of Missouri. I will.

Mr. BLACK. The decision that the gentleman has read holds this, that where stamps are sold by the Government for the purpose of the payment of a tax and are destroyed before that tax accrues, then the Government should reimburse the loss; but does the gentleman contend that if the American Tobacco Co., for instance, was the manufacturer of this tobacco and snuff, and that it affixed the stamps and then sold them to Faxon, Horton & Gallagher, and to Long Bros. Grocery Co., and others, the tax accrued while in the possession of those gentlemen, and that they would have any legal, equitable right to come back on the Government?

Mr. BLAND of Missouri. I say that the letter of the statute covered the exact case of the American Tobacco Co. I say that the spirit of the statute and of this decision reaches out and covers this transaction, because it was the intention of the Government to collect the tax only upon a transaction where a profit would be derived and where the article was placed in the hands of the ultimate consumer. That is the purpose of it. The Government loses nothing by this refund. Subsequent to the



destruction of the tobacco, reports were made by the deputy collectors, as they were called immediately after the destruction of the stamps by water occurred. Understand that the cigars were not floated away. A flood unprecedented in history came up, a flood that probably will never be equaled. It can hardly be conceived that it will ever again be equaled in volume. It entered the warehouses and destroyed the goods in many instances. The deputy collector saw the stamps, took the exact value and number of the stamps, and made a report thereof. The Court of Claims finds that the claimants in this case were absolutely without any negligence on their part, and that they had paid the tax over 16 years ago upon cigars which they never sold and from the sale of which they never derived a profit. My opinion is that this Government intends to tax the tobacco when it is placed in the hands of the consumers, when it reaches the ultimate consumer.

Mr. EVANS of Nebraska. Will the gentleman yield?

Mr. BLAND of Missouri. I will.

Mr. EVANS of Nebraska. Suppose the cigars in question had been sold to the consumer, and he had never opened them or used them when the stamps were washed away, would the Government in that case be liable?

Mr. BLAND of Missouri. If it was an unbroken package. That, however, is not this case, but if I were the Government and attempted to act equitably I would refund the money. I think it would only be just and equitable that it be done. The purpose of Congress in passing the statute—section 3246 of the Revised Statutes—was not to tax transactions on which no profit was derived.

Mr. EVANS of Nebraska. Was not there a profit derived in the transaction from the manufacturer to the wholesaler, or, to put it differently, if the manufacturer had sold to the wholesaler without the stamps, would not they have been committing a crime?

Mr. BLAND of Missouri. There was not a profit derived by the party who paid the tax to the Government, and that is the wholesaler. The manufacturer did not, in fact, pay the tax to the Government because it was refunded to the manufacturer by the wholesaler. The wholesaler is the party who paid the tax and never derived any benefit from the stamps.

Mr. JONES of Texas. Will the gentleman yield?

Mr. BLAND of Missouri. I will.

Mr. JONES of Texas. If the Government should establish a precedent of refunding money in a case like this, would not the Government be flooded with claims arising in the case of fire and floods and all the way down from the manufacturer to the retailer?

Mr. BLAND of Missouri. I think not, because it would be impossible to establish the identity; but here is a case where there was no question about the identity, where the inspector or the deputy collector examined and stated the exact value. If it be the purpose of the Government to impose a tax where a profit is derived from the transaction, where they pass into consumption, then it is within the spirit of this decision and within the spirit of the law to refund the money—this particular tax which has been exacted and that has never served its purpose, as in this particular case. If you hold a Treasury note, as suggested by the gentleman from Pennsylvania, and you can identify it, carry it to the Treasury of the United States, a refund is made, though it is only a part of the note. In this particular case the Government does not lose a cent. The Government has received this tax imposed upon this tobacco, and these gentlemen who have sustained this loss have never received any benefit from it.

Mr. JONES of Texas. Would the gentleman advocate the refund of tax money in all instances where the goods were not consumed and where the stamps could be identified?

Mr. BLAND of Missouri. What does the gentleman mean? His question is too general.

Mr. JONES of Texas. Would the gentleman advocate the Government refunding taxes in all instances where the goods have not been consumed and where the stamps destroyed could be identified?

Mr. BLAND of Missouri. Where the goods are actually or partially consumed, as applied to what? If you apply it to tobacco, I answered that a moment ago. If the Government exacts a tax upon the article where the article does not pass into consumption and that is the purpose for which the tax is imposed, I think it equitable, and I think if the proof is sufficient and satisfactory the Government should make a refund. Is there any greater reason for making a refund to the manufacturer in any case where he has attached the stamps to the boxes?

Mr. JONES of Texas. In that case it has never got into the trade. In the instance at bar they have.

Mr. BLAND of Missouri. What is the difference in principle? Mr. JONES of Texas. Until it gets into commerce the question of refund applies.

Mr. BLAND of Missouri. What is the difference in principle between the equity of the manufacturer's claim and the equity and justice of the claims of the wholesalers?

Mr. JONES of Texas. The practical side of identifying it and taking care of it.

Mr. BLAND of Missouri. In this case the identity is complete. There is absolutely no difference between the equity of this case decided by the Supreme Court of the United States or the justice of it as applied to the American Tobacco Co. in the One hundred and sixty-sixth United States and the wholesalers in this case who paid the tax on this tobacco which they never sold.

Mr. BEE. Will the gentleman yield?

Mr. BLAND of Missouri. Yes.

Mr. BEE. Do I understand that if this case had been the manufacturers instead of the wholesalers there would have been no question about it?

Mr. BLAND of Missouri. Absolutely, under the decision of the Supreme Court of the United States.

Mr. CANDLER. Will the gentleman yield?

Mr. BLAND of Missouri. Yes.

Mr. CANDLER. The practice is that whenever there is a loss of postage stamps, or money, or bonds, or any obligations of the Government that have been issued, where they are destroyed and you can identify them beyond question, the Government has paid for them in every instance?

Mr. BLAND of Missouri. And where the Government in fact suffers no loss.

Mr. CANDLER. No loss; but the gentleman's case differentiates in this respect from the suggestions made by the gentleman from Texas [Mr. JONES] and other Members, because the cases to which they refer are cases where the loss occurred and the identity can not be established. In this case, you proved the identical amount, number, and value of all of the stamps, and it is fixed in the decision by the Court of Claims. The Court of Claims said that you had no legal right to recover, because there was no law authorizing it, and if there was a law authorizing it, you would not be here asking Congress to pay it. That is the difference in the cases. In your case you have established it, and it ought to be paid.

Mr. BLAND of Missouri. That is true. There is no difference in spirit between the status in the case of the manufacturer, in the American Tobacco Co.'s case, and the wholesalers in this case. There is no difference in sound principle. The only difference is that one is within the letter of the law enacted by Congress, and within the letter of the decision of the Supreme Court of the United States, and the other is within the spirit and intent of the meaning and justice of that law and that decision.

Mr. BLACK. Using the postage-stamp illustration that the gentleman from Mississippi [Mr. CANDLER] used, suppose you affixed a postage stamp to a letter and sent it through the mail and the postmaster forgot to cancel the stamp. The service has been rendered. Does the gentleman think that he could go to the Post Office Department with an admission that the letter had received governmental service and redeem the postage stamp?

Mr. BLAND of Missouri. Oh, no.

Mr. BLACK. In a tobacco-stamp tax the stamp has been paid by the manufacturer, the service has been rendered, and the identical same situation would prevail.

Mr. BLAND of Missouri. But in the case the gentleman mentions the postage stamp has been actually used.

Mr. CANDLER. And it has answered the purpose for which it was intended. In this case these stamps had not been used and they have not answered the purpose for which they were issued and for which the man paid the Government.

Mr. BLAND of Missouri. Absolutely not. There is no difference between the status of the American Tobacco Co. and this case to which I have directed attention and the facts in the case now under consideration.

Mr. KELLY of Pennsylvania. Is it not true that postage stamps that have been mutilated and never can be duplicated can be recovered?

Mr. BLAND of Missouri. Yes.

Mr. KELLY of Pennsylvania. And United States bonds also?

Mr. BLAND of Missouri. Yes.

Mr. CHINDBLOM. When does it become the duty of the manufacturer to place the revenue stamp on the cigars; as soon as he has manufactured the goods or when he tries to float them in the market?

Mr. BLAND of Missouri. I think it is upon the completion of the manufacture of the goods. That is my recollection.

Mr. CHINDBLOM. So that it is a tax on the manufacture and not upon the sale?

Mr. BLAND of Missouri. It is a tax upon the transaction itself, from which the individual derives a profit ultimately, and it is intended to go upon that article until it passes into consumption and use. The wholesaler does not consume it.

Mr. CHINDBLOM. Is it a sort of license for doing the business of manufacturing tobacco or is it a license to sell the goods?

Mr. BLAND of Missouri. It is not a license for doing business as a manufacturer.

Mr. CHINDBLOM. I mean in effect a license?

Mr. BLAND of Missouri. It is a tax imposed on this particular article which is entitled to pass into consumption.

Mr. ANDREWS of Nebraska. An internal-revenue stamp is put upon the box of cigars as an evidence of the right and authority of the manufacturer to sell them. He had to do that in order to sell them.

Mr. BLAND of Missouri. That is right.

Mr. ANDREWS of Nebraska. Did the wholesaler buy the stamps, or the cigar man?

Mr. BLAND of Missouri. The latter buys both the cigars and the stamps. He buys the cigars and pays the tax as well. The manufacturer does not really pay the tax.

Mr. ANDREWS of Nebraska. Does the gentleman think that his invoice would show so much for cigars and so much for stamps?

Mr. BLAND of Missouri. No. It shows the total price that is charged, and into that price is carried the cost of the revenue stamps.

Mr. ANDREWS of Nebraska. When the stamp was used in that sale, and it had to be used in order to authorize the manufacturer to make the sale, the authority of the Government has been granted, and the stamp in all probability was canceled, was it not?

Mr. BLAND of Missouri. The stamp was canceled when it was attached to the box originally.

Mr. ANDREWS of Nebraska. But when it went into the sale?

Mr. BLAND of Missouri. No; it was canceled when it went into the box originally.

Mr. ANDREWS of Nebraska. After it has been canceled and has gone into trade, is it not a great risk as a matter of precedent to expect the Government to redeem the stamp?

Mr. BLAND of Missouri. Has it not gone into trade the moment the manufacturer purchases the stamp and makes the cigars and attaches the stamp to the box and cancels it? It has then gone into trade; it has gone into the manufacturer's trade.

Mr. ANDREWS of Nebraska. It has not gone into commerce until it is transferred in sale from the manufacturer to the wholesaler.

Mr. BLAND of Missouri. It is in commerce that moment.

Mr. ANDREWS of Nebraska. True, but it has not passed from hand to hand.

Mr. BLAND of Missouri. I yielded only for a question; but I will answer the last question of the gentleman. The only reason that the manufacturer can recover is because Congress in its wisdom has passed this law, and the Supreme Court has enunciated the spirit and intention of that law, and for the very reason upon which this law is founded. I am not talking of the technical right to recover, else we would not be here with this claim.

And for the very reason upon which this decision was based and upon which the law itself is based it applies to the wholesaler with equal force of equity and justice as it does to the manufacturer.

Mr. PARRISH. Will the gentleman yield for a question?

Mr. BLAND of Missouri. I will yield for a question.

Mr. PARRISH. Had not the stamps when they were put on the tobacco by the manufacturer served in part the purpose for which they were intended to serve?

Mr. BLAND of Missouri. I think not. Where the manufacturer puts them on the goods he has to cancel them. They are then in a sense used stamps. When he transfers the goods to the wholesaler the wholesaler pays this tax. The manufacturer does not pay it; the wholesaler pays it.

Mr. PARRISH. That enters into the cost of the tobacco as the thing that goes to make up the full cost of production of the goods?

Mr. BLAND of Missouri. The wholesaler pays for the article. These stamps have a certain ascertained definite value. There

is no trouble in making a separation from the goods. There is no trouble about that, there is no uncertainty or indefiniteness about it, and here is our great Government imposing a tax on a transaction which has never occurred. The Government pays nothing to these men, the Government simply refunds to them the money which the Government has had for over 16 years. The interest, as the old negro in the South said, has eaten up the principal a long time ago.

Mr. HERSMAN. Will the gentleman yield?

Mr. BLAND of Missouri. I will.

Mr. HERSMAN. I am asking this for information. It seems to me that these stamps were not canceled until the box is finally opened and disposed of.

Mr. BLAND of Missouri. Yes; the stamps must be destroyed when the box is finally opened.

Mr. HERSMAN. But not until then.

Mr. BLAND of Missouri. Not until then.

Mr. HERSMAN. That will go into the retail trade before it is finally destroyed?

Mr. BLAND of Missouri. Yes.

Mr. HERSMAN. And they have a definite money value until they are in retail; in other words, they are like postage stamps, they are worth their face value until they are finally canceled.

Mr. BLAND of Missouri. And the Government has lost absolutely nothing on the stamps if refund is made.

Mr. BLACK. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BLACK. When can I be recognized in my own right to oppose the bill? I do not want to interfere—

The CHAIRMAN. The gentleman can be recognized now.

Mr. EDMONDS. Mr. Chairman, how much time have I left?

The CHAIRMAN. Fifteen minutes.

Mr. EDMONDS. May I yield the gentleman some time? How much time would the gentleman desire—10 minutes?

Mr. BLACK. Ten or fifteen minutes, depending upon how many questions are asked me.

Mr. EDMONDS. I will yield the gentleman from Texas 14 minutes of that time.

Mr. BLACK. Mr. Chairman, I regret to oppose a private bill introduced by a Member whom I like so well as the gentleman from Missouri [Mr. BLAND]. I have always believed that when we come to the Private Calendar we should take up bills wherever they are meritorious and pass them as expeditiously as possible, so that a claimant who does have a just claim against the Government can collect it. Many claimants have had to wait entirely too long to collect claims to which they were justly entitled. But in respect to this claim, I see that it has been brought in the Court of Claims, and that court, after careful examination, says it has neither a legal nor an equitable status.

Mr. BLAND of Missouri. Will the gentleman yield?

Mr. BLACK. Yes; certainly.

Mr. BLAND of Missouri. The gentleman understands that the Court of Claims simply means by that that it is not a claim that can be enforced in a court of equity or a court of law?

Mr. BLACK. Well, I will state to the gentleman that I interpret the language to mean what it says.

Mr. BLAND of Missouri. But the gentleman understands what it means.

Mr. BLACK. I do not understand it in the same sense as the gentleman. The Court of Claims, after hearing this case, simply came to this decision—that tobacco and snuff and cigars were destroyed to which there had been affixed an aggregate number of stamps to the amount of \$3,185, and that those stamps were destroyed in a flood, and then arriving at these facts stated its legal conclusions, and said, "That we conclude that there is neither a legal nor an equitable claim against the United States." And I think the court was eminently correct in the conclusion, because let us look to the Revised Statutes and see what the law says. Now, I read from section 3364 of the Revised Statutes:

SEC. 3364. Every manufacturer of tobacco or snuff shall, in addition to all other requirements of this title relating to tobacco, print on each package, or securely affix, by pasting, on each package containing tobacco or snuff manufactured by or for him, a label, on which shall be printed the proprietor's or manufacturer's name, the number of the manufactory, the district and State in which it is situated, and these words:

"Notice. The manufacturer of this tobacco has complied with all requirements of law. Every person is cautioned, under the penalties of law, not to use this package for tobacco again."

How has he complied with all the requirements of the law? He has paid the tax that the law requires, and the Government requires him to caution every man into whose hands the pack-



age goes that the tax has been paid and that he must not use the package again.

Mr. MADDEN. Will the gentleman yield?

Mr. BLACK. Yes.

Mr. MADDEN. Of course, the tax would not have been required to be paid unless the tobacco had been manufactured?

Mr. BLACK. Certainly not.

Mr. MADDEN. And when the tobacco was manufactured and sought to be put into trade the tax was required. If the tobacco was lost or if any of that would be lost, it ought not to be any claim against the Government.

Mr. BLACK. There should not be any claim. That is what I am trying to bring out. Now, I will give an illustration with reference to the decision of the court. Suppose that in this flood that the tobacco had been destroyed and not the package with the revenue stamps and these claimants had undertaken to fill up the packages again. What does the law say? Why, it says, "you have got to pay a new tax, Mr. Dealer; you can not use that package any more, because the manufacturer who did use it paid the tax, and if you use it again you must put a new stamp upon it."

Now, here is the decision in that respect.

Mr. BLAND of Missouri. Will the gentleman yield?

Mr. BLACK. In just a moment.

Where cigars are repacked in new boxes they become liable to the same tax that was imposed when they were first taxed.

Mr. BLAND of Missouri. In this case it says that some of the goods were salvaged and stamps destroyed, and the wholesaler in that instance purchased new revenue stamps. So there was a double tax on the same article that goes into trade. The Government never intended that. It only intended to tax that particular package once. But in that case there was a double tax imposed, and it should be refunded.

Mr. BLACK. The Government has said to every manufacturer of tobacco that "whenever you manufacture it and put it into a package you must then and there affix and cancel a stamp." And I undertake to say that the decision the gentleman read simply says this, "That if you hold in your possession some revenue stamps that have not been affixed, and they are destroyed, the Government will reimburse you." There is nothing new about that. That is upon the same basis as if postage stamps were destroyed by a fire before they had been affixed to letters.

Mr. BLAND of Missouri. Will the gentleman yield further?

Mr. BLACK. Yes.

Mr. BLAND of Missouri. The gentleman has just made a statement that shows a misapprehension of the decision of the Supreme Court. The Supreme Court has said that, and as a matter of fact, the Supreme Court in that particular case permitted recovery for \$1,300 worth of stamps that had never been used and permitted recovery for some \$2,700 worth of stamps that had been used, attached to the boxes and canceled. Now, the gentleman is mistaken in his statement. The gentleman bases his opinion upon that.

Mr. BLACK. The gentleman from Missouri, of course, has read this case from the Supreme Court more carefully than I have, because I did not have it called to my attention until the gentleman read it. But in that decision the court quotes from the opinion in *Jones v. Van Benthuyzen* (103 U. S., 87, 88), in which Mr. Justice Miller said, speaking for the court:

On the other hand, we are of opinion that when they are once attached to the tobacco and canceled, and can never be lawfully used again, they cease to have any separate and independent value, and that which they had previously had become merged into that of the tobacco. All subsequent sales are made upon the basis of the increased value the tobacco has acquired by the payment of the stamp duty and can never be estimated apart from this.

If that does not announce an opinion against the gentleman, I have not read the case close enough.

Mr. BLAND of Missouri. Did the gentleman read the syllabus?

Mr. BLACK. I have read from the case itself.

Mr. BLAND of Missouri. I understand; but the syllabus is the law.

Mr. BLACK. I think the case is the law.

Mr. CHINDBLOM. Will the gentleman from Texas yield?

Mr. BLACK. I yield.

Mr. CHINDBLOM. Suppose that these packages of tobacco, cigars, and cigarettes had been consumed in the fire and destroyed; would not the owners have been able to recover the value of the tobacco, together with the value of the revenue stamps, from an insurance company?

Mr. BLACK. I will state to the gentleman—

Mr. CHINDBLOM. Because, as the court says in this case, the revenue stamps and their value have been merged into the packages themselves.

Mr. BLACK. I think the gentleman has stated the case correctly. Let me in a moment—because my time, I think, is about to expire—show you how unreasonable a claim of this kind would be if we allowed it. Now, let us suppose that Rothenberg & Schloss, a firm mentioned in this bill, were handling that old familiar brand of tobacco known as "Brown Mule," and on which, of course, the tax had been paid by the manufacturer, and that on the day previous to the flood the firm had sold a caddy of this "Brown Mule" to a country merchant down at the crossroad store, and it was also destroyed by the raging waters; then that gentleman also would have a right to come here and ask Congress to reimburse him for his loss of tax on the caddy of "Brown Mule" and would have just as legal and just as equitable a claim as the ones we have before us. Now, the point I am making, gentlemen, is that you can not afford to set the precedent of passing a bill of this kind, because, as the Supreme Court says in that decision, when the stamp is once affixed to the box and canceled, it loses its independent value and becomes a part of the value of the tobacco; and whenever the consumer, be he wholesaler, retailer, or country merchant, buys it, the only way he has to protect himself is by insurance. And if he is unfortunate enough not to have insurance, then he loses the amount of the tax as well as the value of the tobacco.

Mr. KELLY of Pennsylvania. I would like to ask the gentleman what he conceives to be the purpose of affixing these internal-revenue stamps on caddies of tobacco and boxes of cigars?

Mr. BLACK. The purpose is this: The law says every manufacturer who manufactures snuff, or cigars, or cigarettes for sale shall, at the time that he puts them into the packages, affix a stamp, and the purpose of the stamp is to evidence the payment of the tax. And when he has paid the tax it is then, I say, an accrued liability, and there can be no liability on the part of the Government to refund the amount of the tax to some third party who has bought the article. Now, if the stamp, of course, is destroyed before it is affixed and you can establish that fact by clear and unmistakable evidence, undoubtedly the Government would be both legally and morally bound to refund the money. But after the tax has accrued and has been paid, even in the hands of the manufacturer, it can not be collected, and certainly not in the hands of the wholesaler or retailer, who had no direct connection with the payment of the tax.

Mr. BLAND of Missouri. In that declaration the gentleman overrules the Supreme Court of the United States.

Mr. BLACK. No. I state frankly that I have not read the decision as closely as the gentleman from Missouri has read it, because I have just had it called to my attention; but even granting the construction that the gentleman puts upon the decision, even saying that the gentleman is correct in his interpretation of it, I contend that it would have no application whatever to a wholesaler into whose hands the tobacco has gone and where there was no tax payment whatever between him and the Government.

Mr. EDMONDS. Mr. Chairman, I ask for the reading of the bill for amendment.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

*Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Faxon, Horton & Gallagher the sum of \$888; to Long Bros. Grocery Co. the sum of \$197; to A. Rieger the sum of \$327; to Rothenberg & Schloss the sum of \$441; to Ryley, Wilson & Co. the sum of \$466; and to Van Noy News Co. the sum of \$868, said sums being in full payment of the value of United States internal-revenue stamps destroyed by flood, as shown by the findings of the Court of Claims, reported in Senate Document No. 642, Sixty-fourth Congress, second session; and a sum sufficient for said purposes is hereby appropriated out of any money in the Treasury not otherwise appropriated.*

Mr. MADDEN. Mr. Chairman and gentlemen of the committee, I think this bill ought not to be paid. Of course, that means that the pending bill ought not to be passed.

To begin with, these stamps would never have been used if the tobacco was not manufactured, and immediately upon the manufacture of the tobacco the law requires the use of stamps. Now, then, as my colleague [Mr. CHINDBLOM] a few moments ago said, if this tobacco with the stamps on it had been burned in a fire it is altogether likely that the owner of the tobacco, including the stamps, would have had insurance on it for that purpose and would have recovered the loss. In this case the loss was in a flood, and the chances are that the owners of the tobacco had no insurance against loss by flood. So the owners come to the United States Government with a claim for a return of the money paid for the stamps.

Now, the stamps were a part of the tobacco value after they had been placed on the packages, and whoever bought the to-

bacco bought the stamps, because he could not buy the tobacco without at the same time paying for the full value of the stamps.

Mr. BLAND of Missouri. Mr. Chairman, will the gentleman yield?

Mr. MADDEN. Yes.

Mr. BLAND of Missouri. In the particular case I cited the Supreme Court of the United States held that \$1,300 worth of the stamps were not attached to the tobacco, and the balance of the \$4,000 worth, or \$2,700 worth, were attached to the packages of tobacco and canceled. Now, then, did they become a part of the value of the tobacco when attached to the packages and canceled?

Mr. MADDEN. I am not paying much attention to what the Supreme Court has decided in that case. These claims embraced in the pending bill are brought here because payment for them could not be secured elsewhere. These claims have been pending for 16 years, and I have no doubt many efforts have been made to collect the money, and without success, before the claimants came to Congress, and for that reason we have the pending bill before us.

Mr. BAER. Mr. Chairman, will the gentleman yield?

Mr. MADDEN. Yes.

Mr. BAER. I am in favor of paying for the stamps that were not used. That is the way the Post Office Department does. If a postmaster turns in damaged or mutilated stamps and they are identified they are paid for. The gentleman from Illinois is contending against the payment for the stamps that are actually on the boxes and in use?

Mr. MADDEN. Yes.

Mr. BAER. But you would allow them for the stamps that were not used and which were identified by the department?

Mr. MADDEN. Yes. If anybody has a lot of stamps that were not used, and these stamps were destroyed, the department would refund the money. But in this case the claimants are seeking to recover for stamps that were used.

Mr. ANDREWS of Nebraska. Mr. Chairman, will the gentleman yield for a question?

Mr. MADDEN. Surely.

Mr. ANDREWS of Nebraska. If I understand it correctly, these stamps had authorized and secured the transfer in trade of the tobacco from the manufacturer to the wholesaler?

Mr. MADDEN. Yes. That was the only way the tobacco could get into the trade.

Mr. ANDREWS of Nebraska. Otherwise the manufacturer would have been liable for penalties under the law?

Mr. MADDEN. Certainly. Let us take a case.

Mr. BLAND of Missouri. Mr. Chairman, will the gentleman yield there?

Mr. MADDEN. Not now. Suppose an owner of a house has taxes levied against it by the local assessor. Suppose the owner pays the tax, and the next day his house is burned down, with no insurance on it. Nobody would say that he could go to the local authorities and get back the tax that he has paid. Could he? Certainly not. That is this case exactly.

Mr. BLAND of Missouri. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Missouri is recognized for five minutes.

Mr. BLAND of Missouri. Mr. Chairman, I want to call attention to this case again. Evidently the gentleman from Texas [Mr. BLACK] has misapprehended the decision I have cited, and the gentleman from Illinois [Mr. MADDEN] declares he does not care what the decision of the Supreme Court may be in that particular case. Now, I do. Ought the manufacturer to occupy any more favored position than the legitimate wholesaler in a transaction of this kind? The Congress passes a law that would reimburse that loss to the manufacturer, and there is no question about his right to recover in that case. If that be true, why should not the Congress exercise its sense of equity and of justice, as it can and should, and refund the particular value of this tax to the wholesaler?

Mr. EVANS of Nebraska. Mr. Chairman, will the gentleman yield for a question?

Mr. BLAND of Missouri. I can not. I have not the time. I want to present this case; otherwise I would gladly yield.

Now, in this case the syllabus declares that a part of these stamps were attached to the boxes and part were not attached. There is no question about that. I hope no gentleman will question that fact. I do not think the gentleman from Texas [Mr. BLACK] will question that fact since reading the decision. In the finding of facts by the Supreme Court it was stated that some of the stamps had never been used, aggregating a face value of \$1,300. The other stamps, aggregating in value \$2,700, had been attached to the packages of tobacco. If these things be true, why could not every word of the argument that the gen-

tleman from Texas [Mr. BLACK] has made, and every word of the argument that the gentleman from Illinois [Mr. MADDEN] has made, apply with equal force against the refund of those stamps that have been attached to the packages of tobacco by the manufacturer just as strongly, I say, just as persuasively, as the arguments which they now make against the refund of the money to these wholesalers, who, in fact, paid the tax?

I want to say, gentlemen of the committee, that in this particular case the manufacturer did not pay the tax. The wholesaler paid the tax. The manufacturers charged for the stamps by adding their value to the price of the cigars and passed it on to the wholesaler, and under the same circumstances under which the manufacturer had been permitted to recover the wholesaler should recover. These gentlemen say the wholesaler shall be denied the right of recovery. If I were sitting as a court of equity, with adequate powers, I would not hesitate to render a decree. It would probably not be within my power, unless I had express authority of statute to do that, but Congress has that authority, because Congress passed the very statute under which compensation is given to the manufacturer.

The United States Government is not out one single cent in this transaction. These men paid this tax over 16 years ago, and because of the delay existing in hearing private claims their case has been pending in the Court of Claims and been pending here in the Sixty-fourth and Sixty-fifth, and now in the Sixty-sixth Congress; and if this claim is disallowed here, you declare that the manufacturers of this country belong to a favored few, and the wholesalers of this country shall be denied equal justice.

I say advisedly that if this claim is disallowed, then you will declare that the manufacturers of this country belong to the favored few, and that the wholesalers and others of this country shall be denied equal justice.

Mr. MADDEN. Mr. Chairman, I move to lay the bill on the table.

The CHAIRMAN. The Chair does not think that motion is in order now. The proper motion by those favoring the bill would be to lay the bill aside with a favorable recommendation, and a negative vote would accomplish the gentleman's purpose.

Mr. EVANS of Nebraska. Mr. Chairman, I move to strike out the last two words. With reference to this bill, the gentleman from Missouri [Mr. BLAND], who has just concluded his statement, seems to rest his case upon the action of the Supreme Court of the United States. He submitted this claim, through the proper channels, to the Court of Claims, and the Court of Claims found against him, and if he believed that the Supreme Court of the United States was in his favor his remedy was clear. It was an appeal to the Supreme Court. Because the Court of Claims held in express terms—it is a part of the report—that there is neither equitable nor legal basis for the claim, that settles the law of this case. It is the law of every tribunal to which it could be presented, so long as the decision of the Court of Claims is not appealed from and reversed.

Mr. BLAND of Missouri. The Court of Claims held that it was a claim which could not be enforced in a court of law or equity, but that the claimant's only remedy was by an act of Congress, and therefore it is presented to Congress.

Mr. MADDEN. Mr. Chairman, I move to lay this bill aside with a recommendation that it do lie upon the table.

The CHAIRMAN. The gentleman from Illinois moves that this bill be laid aside with the recommendation that it do lie upon the table.

The question being taken, on a division (demanded by Mr. BLAND of Missouri) there were—ayes 27, noes 18.

Mr. BLAND of Missouri. Mr. Chairman, I ask for tellers.

The CHAIRMAN. The gentleman from Missouri asks for tellers. Those in favor of ordering tellers will please rise and stand until counted. [After counting.] Eleven Members, not a sufficient number.

Mr. BLAND of Missouri. I make the point of order that there is no quorum present.

Mr. BLANTON. Mr. Chairman, I make the point of order that when the point of no quorum is made in the committee the roll call is not on the motion, but simply to ascertain the presence of a quorum.

The CHAIRMAN. The gentleman from Missouri has the right to make the point of no quorum.

Mr. BLANTON. But the roll call is not on the vote, but simply for the purpose of ascertaining the presence of a quorum.

The CHAIRMAN. Only for the purpose of ascertaining the presence of a quorum.

Mr. CHINDBLOM. Will that bring another vote on the bill?

The CHAIRMAN. If the absence of a quorum is determined and a roll call is had, then when a quorum appears the vote will be taken.



Mr. BLAND of Missouri. In view of the fact that there are many other private claim bills on the calendar, I withdraw the point of no quorum.

The CHAIRMAN. The point of no quorum is withdrawn. The motion is agreed to, and the bill is ordered to be laid aside with the recommendation that it do lie upon the table. The Clerk will report the next bill.

MARTIN GOLDSMITH.

The next business on the Private Calendar was the bill (H. R. 7030) for the relief of Martin Goldsmith.

The bill was read, as follows:

*Be it enacted, etc.,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Martin Goldsmith, late hospital steward, United States Navy, who served as assistant surgeon from June 2, 1862, until October 31, 1862, the sum of \$583.33, the difference between the pay of hospital steward, which he actually received, and the pay of an assistant surgeon, to which he was entitled for the period named.

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. EDMONDS] desire recognition?

Mr. EDMONDS. Mr. Chairman, this is a war-claim bill, and I think the gentleman from Nebraska [Mr. EVANS] would like to explain it.

Mr. EVANS of Nebraska. Mr. Chairman, I am somewhat embarrassed at the position in which I find myself. The chairman of the committee having in charge this claim has been called away suddenly and I am not very familiar with the facts, but will endeavor to give them to the committee as best I can.

This is a bill for the relief of Martin Goldsmith, who during the Civil War was a druggist, and who entered the service as a hospital steward, and was placed upon one of the vessels of the Federal Navy in that position. The commanding officer finding himself without a surgeon, and Martin Goldsmith having taken a portion of the course necessary to a degree in medicine, was assigned to the position of surgeon on the vessel and performed the surgeon's duties from the 2d day of June to the 31st day of October, in the year 1862. He was paid only the wages of a steward, and this bill is to give him the difference between the salary of a hospital steward and that of an assistant surgeon.

Mr. McLAUGHLIN of Michigan. Who presents the claim now?

Mr. EVANS of Nebraska. The claim is presented by the gentleman himself, who is now 80 years of age, feeble, and receiving a pension of something like \$22 a month. I have in my hand his personal affidavit, which I will read, which will give the committee the information that is in the hands of the Committee on War Claims.

The part of the affidavit that is material reads as follows, referring to the time he was on the vessel:

It was soon apparent to all on board that the surgeon had neither the ability nor experience, and from the very first day all the medical and surgical duties devolved on me. Late in May, 1862, a sailor fell from the yardarm and fractured his skull, and as the surgeon did not perform the necessary operation and ordered me under arrest for undertaking it, I placed myself under the protection of the captain, and the surgeon was ordered to report at Washington, June 2, 1862. Capt. Armstrong then sent for me and read from a letter he had received from the Secretary of the Navy these words: "The surgeon steward whom you so highly recommend will act as surgeon until another is appointed in his place." This being an official document must have been copied and should be among the annals of the Navy Department. That I satisfactorily performed all the duties of the position from June 2 to October 31, 1862, is evidenced in the accompanying letter from Capt. Armstrong, and the fact that no other person was appointed or sent in my place is prima facie evidence that the department was fully convinced of my ability and the performance of the duties of the position.

I am now nearly 80 years of age and have had two strokes of paralysis, consequently am unable to do anything to add to my income; my pension is only \$22.50 per month.

The salary of assistant surgeon in the Navy was \$1,700 per year. That of surgeon steward was \$25 per month, and I most respectfully present my claim for the difference in salary for the five months that I had the position of surgeon and fulfilled all the duties satisfactorily.

MARTIN GOLDSMITH,  
Egg Harbor City, N. J.

Sworn and subscribed to.

Attached to the report is the letter referred to, which is in the following language—

Mr. McLAUGHLIN of Michigan. Is that the original letter?

Mr. EVANS of Nebraska. No. The affidavit which I read is the original, but the letter is in the report. I have not the original letter here.

Mr. TIMBERLAKE. The original letter was submitted to the committee.

Mr. EVANS of Nebraska. I am presenting this matter, having never seen it until just now, except as it was presented in the report. I do not have the original letter. This copy which I now propose to read is one that has been presented in a number of reports by previous committees, all of whom, so far as I have any knowledge, have reported favorably upon this claim. The letter is as follows:

NOVEMBER 20, 1862.

Sir: It gives me pleasure to state that during the time you were serving on board this ship as hospital steward your conduct merited my approbation.

A portion of the cruise, owing to the sickness of the surgeon, and afterwards to his detachment, you were placed in a very responsible position, which I am glad to say you filled with credit to yourself and to the satisfaction of all on board.

I wish you success.

Very respectfully,

JAS T. ARMSTRONG,  
Commanding.

Mr. MARTIN GOLDSMITH, Philadelphia.  
(With J. G. Baker, Jr., druggists.)

The facts of the case are presented in the affidavit and statement. Personally, from investigation I know nothing more than I have stated here, but the policy of Congress in many cases, and where it has been permitted under the law, the practice of the department has been to pay men the salary of the position which they filled, although not holding the particular rank.

Mr. WASON. Will the gentleman yield?

Mr. EVANS of Nebraska. I will.

Mr. WASON. What is the date of the affidavit that the gentleman read? When was it executed and sworn to?

Mr. EVANS of Nebraska. On the 13th day of September, 1917.

Mr. VAILE. Then the claimant is now two years older than he was at that time.

Mr. EVANS of Nebraska. Yes.

Mr. McLAUGHLIN of Michigan. And still living.

Mr. EVANS of Nebraska. Yes; so far as I know. The bill is for him as an individual and not for his heirs. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The CHAIRMAN. The Clerk will read the bill for amendment.

The Clerk read the bill for amendment.

Mr. EVANS of Nebraska. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The question was taken; and on a division (demanded by Mr. BLANTON) there were 30 ayes and no noes.

So the motion was agreed to.

JULIUS JONAS.

The next bill on the Private Calendar was the bill (H. R. 3258) for the relief of Julius Jonas.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Julius Jonas, a resident of Walden, N. Y., the sum of \$500, and interest, at the rate of 3 per cent per annum, from November 1, 1901, to August 1, 1918, in redemption of United States coupon bond No. 446, for \$500, of the 3 per cent loan of 1908 to 1918, with interest coupon, attached dated February 1, 1902, to maturity, inclusive, the said bond and coupons alleged to have been destroyed by fire: *Provided,* That the said Julius Jonas shall first file in the Treasury Department a bond in the penal sum of double the amount of the principal and the unpaid interest coupons of the said bond, in such form and with such sureties as may be acceptable to the Secretary of the Treasury, to indemnify and save harmless the United States from any loss on account of the alleged destroyed bond, hereinbefore described or the coupons belonging thereto.

Mr. GLYNN. Mr. Chairman, this is a bill to reimburse the owner for the loss of a bond which had been destroyed. No coupons have been presented since 1901. The Government is secured, because under the terms of the bill before reimbursement is made a bond must be given in double the amount of the principal of the bond lost or destroyed. The Government loses nothing.

Mr. McLAUGHLIN of Michigan. Will the gentleman yield?

Mr. GLYNN. Yes.

Mr. McLAUGHLIN of Michigan. I noticed as the bill was read it provides for payment of the principal of the bond and interest up to some time in 1918. I presume that was the time the claim was filed here. If it should be determined that the claim was a proper one and should be paid, why should not the interest be paid to this date?

Mr. GLYNN. I think perhaps that is true, but I am not in favor of paying people more than they ask for.

Mr. STEENERSON. That would depend upon whether any more coupons were due.

Mr. GLYNN. The bond has matured, as I understand it.

The CHAIRMAN. The Clerk will read the bill for amendment.

The Clerk read the bill for amendment.

Mr. BLANTON. Mr. Chairman, I move to strike out the last word for the purpose of asking some questions. Under the stipulations in this bill, on the day that this bond is alleged to have been lost—18 years ago exactly to-day—in all of this time, so far as I know, this is the first time that Congress has been asked on the floor of the House to reimburse the owner for a lost bond, not only the principal but the interest at 3 per cent for 18 years. It does seem to me that when people sleep on their rights for 18 years, which is nearly one generation for mankind,

that the practice which is sometimes asked for and obtained in court, that when they sleep on their rights they suffer the consequences, should prevail here.

I do not know what the real circumstances were surrounding this particular bond. I wish the gentleman from Nebraska, who has much knowledge on such matters, having been an auditor for years, were on the floor for he could throw some light on it. I do not think people ought to wait until witnesses die, until the department officials change, and the evidence against them is perhaps destroyed or forgotten, or put where it can not be found, before they come in and ask the Government for relief. I would like to ask why these people have waited 18 years to come here and ask for reimbursement on this \$500 bond.

Mr. GLYNN. I will say that the bond did not mature until August, 1918.

Mr. BLANTON. There were interest coupons and interest payments due every year on that bond. In other words, in 1902 there was an interest payment due from the Government. Parties are usually not derelict in collecting interest. If the bond was lost and they failed to collect the interest—they knew that the bond was not in existence—why should not they have come in during the second, fourth, tenth, or even fifteenth year and ask for reimbursement at the hands of Congress?

Mr. GLYNN. I have a communication showing that the loss was reported in 1902.

Mr. BLANTON. To whom?

Mr. GLYNN. To the Treasury Department.

Mr. BLANTON. Why have they waited 18 years? I dare say that the owner of the bond lost 18 years ago is not living.

Mr. PLATT. Oh, yes; he is.

Mr. BLANTON. I dare say that if we had the facts and circumstances, that the claimant who is now asking Congress for reimbursement is a descendant of the original owner of the bond.

Mr. PLATT. That is not true.

Mr. BLANTON. The claimant is the one who owned the bond 18 years ago?

Mr. PLATT. The same man.

Mr. BLANTON. Then he ought to be in the insane asylum if he has waited 18 years to establish his claim.

Mr. PLATT. Does the gentleman want me to answer his question?

Mr. BLANTON. I would like to hear from the gentleman from New York.

Mr. PLATT. I will say to the gentleman—

Mr. BLANTON. We have to go to New York usually for help on all financial matters.

Mr. PLATT. These people have made claim to this money from the time the bond was lost, but it was a close question whether the Treasury could return the money without an act of Congress. The testimony is almost complete as to people having actually seen the bond destroyed.

Mr. BLANTON. But it has taken them 18 years to find out that it takes an act of Congress to grant relief?

Mr. PLATT. The Treasury Department will not approve an act of Congress until every other resource has gone by.

Mr. BLANTON. I think that unreasonable laches are present here and a very careless sleeping on rights, to say the least of it.

Mr. PLATT. These people used every means possible to get the department to refund the bond.

Mr. BLANTON. I am going to vote against this bill. It is too old.

Mr. PLATT. The bond was burned. It could not be definitely proven that anybody actually saw it burn, but it was swept off a desk into a waste-paper basket and burned. The owner's son burned the stuff in the waste-paper basket.

Mr. EVANS of Nevada. I might suggest to the gentleman that it is a common practice of banks, when they get a bond for double the amount of a certificate of deposit which has been lost, to pay the certificate.

Mr. BLANTON. But you do not find any banks in this land under supervision of either State or Federal inspection that would pay interest on an evidence of indebtedness for 18 years when it is shown to be lost for that length of time.

Mr. EVANS of Nevada. Oh, I think they do.

Mr. BLANTON. They do not do business in that way on Wall Street, in the gentleman's State of New York.

Mr. PLATT. I do not live on Wall Street, I will say to the gentleman.

Mr. BLANTON. The gentleman could not live on a better street when it comes to money matters.

Mr. GLYNN. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The question was taken; and on a division (demanded by Mr. BLANTON) there were—ayes 46, noes 0.

Mr. BLANTON. There is such a big attendance here to-day, Mr. Chairman, that I shall not make any further point. There is an unusual attendance here for claim day.

So the bill was ordered to be laid aside with a favorable recommendation.

The CHAIRMAN. The Clerk will report the next bill.

JOHN ZIMMERMAN.

The next business on the Private Calendar was the bill (H. R. 1024) authorizing the Secretary of the Interior to issue a patent to John Zimmerman for certain lands in the Colorado National Forest upon the surrender of other lands of equal acreage, also located in the Colorado National Forest, Colo.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That the Secretary of the Interior is hereby authorized to issue a patent to John Zimmerman for the following-described lands: The north half of the southwest quarter of the southeast quarter of section 32; the south half of the southeast quarter of the southeast quarter of section 33, township 9 north, range 74 west of the sixth principal meridian; and the north half of the north half of the northeast quarter of the northwest quarter of section 4, township 8 north, range 74 west of the sixth principal meridian, upon the transfer by the said John Zimmerman to the United States of the following-described lands: The northeast quarter of the northeast quarter and the north half of the north half of the southeast quarter of the northeast quarter of section 31, township 9 north, range 74 west of the sixth principal meridian: *Provided,* That upon the conveyance of the surrendered lands they will become part of the Colorado National Forest, Colo.

Mr. VAILE. Mr. Chairman, this is merely an exchange of 50 acres of land for 50 acres of other land, both located on the exterior limits of the Colorado National Forest. The exchange is of lands of equal value and of equal extent. It has been approved by the Secretary of Agriculture, whose letter accompanies the report. If no one desires to ask any question, I ask that the bill be read for amendment.

Mr. EVANS of Nebraska. Will there be any question of right of way by reason of this exchange?

Mr. VAILE. None at all. The lands that Mr. Zimmerman asks for are three separate small pieces, which he desires in order to give access to his own lands. The land which he conveys to the Government, and the conveyance of which is approved by the Secretary, is a contiguous tract; and in each piece of land there is the same stream.

The CHAIRMAN. The Clerk will read the bill for amendment.

The Clerk read the bill.

Mr. VAILE. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The question was taken; and on a division (demanded by Mr. BLANTON) there were—ayes 45, noes 2.

So the bill was ordered to be laid aside with a favorable recommendation.

ARTHUR WENDLE ENGLERT.

The next business on the Private Calendar was the bill (H. R. 795) for the relief of Arthur Wendle Englert.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Arthur Wendle Englert, late of Albion, Mendocino County, Calif., out of any money in the Treasury not otherwise appropriated, the sum of \$500, being the value of work done and improvements made by him in good faith during the year 1911 on lands then shown by records of the San Francisco land office to be unpatented, and for which lands patent was issued to said Englert in accordance with law, but which patent was a nullity, said lands having a long time previously been patented by the United States to other persons.

Mr. GLYNN. Mr. Chairman, I yield 10 minutes to the gentleman from California [Mr. HERSMAN].

Mr. HERSMAN. Mr. Chairman, this bill asks that \$500 be appropriated to cover the value of work done and improvements put on certain lands that were patented by Arthur Wendle Englert in 1914, it afterwards developing that the lands had been patented by other parties.

Arthur Wendle Englert was an ex-soldier of the war of 1848. On learning 40 acres of land near Albion, Mendocino County, Calif., was unpatented on the 1st of August, 1911, he filed in the United States land office of San Francisco a declaratory statement, paid the fees, and took the ordinary steps for procuring a homestead title thereto. He took possession of the land, built fences, built a home, grubbed up a certain number of acres, planted a certain number of acres in trees each year, and proceeded to make his home there. He thought he would have a piece of land on which he could successfully make a living. On August 7, 1914, patent issued to the land. In February, 1916, Englert procured an abstract of title to the land and found for the first time that a patent had issued to an-



other person in June, 1880. Englert's patent, therefore, was a nullity. This ex-soldier spent years of effort and all his available funds to improve this 40-acre tract; through the fault of the Government which he had served he found himself without a home and without money. The records of the San Francisco land office showed that the land at the time Englert took possession of it was open to patent, and he proceeded on the records of the land office, which were the only records he had available.

This case has been heard by the committee, and the committee unanimously reports that it should pass. A letter from the Secretary of the Interior reports that it should pass. I will read an extract from that letter. It says that the facts have been duly verified and that this ex-soldier, after finding that it was patented away back in 1880, made a relinquishment of his entry.

Mr. MADDEN. Will the gentleman yield?

Mr. HERSMAN. Yes.

Mr. MADDEN. Does the gentleman want the Congress to assume the rights of an entryman to whom patent was granted to take over all improvements made by this man and have the Government pay for those improvements?

Mr. HERSMAN. When it is clearly shown that it is the fault of the Government.

Mr. MADDEN. Well, I do not see that that has got anything to do with the case. The question here is, here is a man who entered a piece of land supposed to be open to entry. He began to comply with the provisions of the public-land laws. He cultivated the land and built improvements. It turned out afterwards the land was patented by somebody else. Now, if the Government was honest in the matter, or those charged with the enforcement of the land laws, they would require the man to whom patent was issued to pay for the improvements. But what did they do? They turned the patent over to the other man, let him take possession of the other man's improvement, and then ask us to pay out of the Treasury of the United States seven hundred and some odd dollars for their delinquency. Is that right or decent? It ought not to be done.

Mr. HERSMAN. I do not get that at all from the testimony that is presented here.

Mr. MADDEN. What became of the improvements? Who got them?

Mr. HERSMAN. These improvements—there were no improvements on this property when patent was issued to Englert.

Mr. MADDEN. Then what is this money for?

Mr. HERSMAN. There were no improvements on this property when this land was entered by this ex-soldier. It was absolutely without improvement.

Mr. MADDEN. I understand he put improvements on it?

Mr. HERSMAN. He put improvements on it.

Mr. MADDEN. And somebody else got the improvements, did they not?

Mr. HERSMAN. No. The gentleman will find that he cultivated the soil and put an orchard out and made certain improvements; then it developed that this land had been patented 30 years before, and the records of the San Francisco land office showed that it was open to homestead entry at the time he filed on it.

Mr. MADDEN. Who gets the benefit of improvements?

Mr. HERSMAN. The man who patented the land in 1880.

Mr. MADDEN. And the Government of the United States, through the Secretary of the Interior, comes to Congress and asks that \$700 be paid out of the Treasury of the United States when they could just as well force the man to whom patent was granted to pay for those improvements.

Mr. HERSMAN. If the gentleman from Illinois could get the point; it is impossible to force this man to pay for it. This man owned the land in 1880 by patent from the United States Government. Now, the records of the San Francisco land office were erroneous. The Government was at fault in keeping its records. This soldier entered the land, made application, and filed on it, and finally four years afterwards secures patent to the land. Then it develops that the Government had not kept its books correctly, they probably having been destroyed in the San Francisco fire. In restoring the books some Government employee made an error of which this ex-soldier is the victim.

Mr. MADDEN. Let us see what the minority of the committee says about this.

Mr. EVANS of Nebraska. Will the gentleman yield?

Mr. MADDEN. I have not the floor. I am speaking in the time of this gentleman who yielded to me. Here is what the minority of the Committee on Claims says:

Mr. HERSMAN. Where is that?

Mr. MADDEN. I am just reading. I have it right here in hand:

The record shows that the claimant filed upon the 40 acres of land in question on August 7, 1911, and, after complying with formalities, on October 3, 1911, went upon the land and remained thereon in actual peaceable possession thereof, using, occupying, cultivating, and enjoying the same, in open, notorious, and undisturbed possession thereof until March 27, 1916. So far as the record discloses, no adverse claimant ever set up any claim to the land or made any demand for possession, but in February, 1916, claimant had an abstract title made to the land, same then disclosing for the first time that the land had been patented to another on June 1, 1880, and that the claimant, without any demand being made upon him, on March 27, 1916, filed a relinquishment of his claim to the land with the Government and requested the return of the \$62 he had paid out in fees.

This is what part of the Committee on Claims considering this bill said. Then the minority report goes on to say:

I understand that under the laws of California, if an attempt had been made by the prior patentee to eject him, claimant could have recovered from the patentee the value of all the improvements.

Mr. HERSMAN. Read that again; I did not catch it.

Mr. MADDEN. The minority report says:

If an attempt had been made by the prior patentee to eject him claimant could have recovered from the patentee the value of all the improvements which in good faith he had placed upon said land, and in justice and good conscience said prior patentee should have paid for such improvements made in good faith, for in six more months the title of claimant to said land would have been perfected by the five-year statute of limitations existing in California.

But without any demand—now, listen—without any demand being made upon him by anybody, the claimant voluntarily relinquished the land and relinquished his title back to the Government and abandoned the land which he had occupied for four and a half years and left all of his improvements, which he claims had not been valuable and made in good faith, as a present and a gift to an unknown prior patentee named Dallas, who, so far as the record shows, had never asserted any claim to the land after 1880.

Mr. GLYNN. I would like to ask the date of that report.

Mr. MADDEN. There is not any date connected with it.

Mr. GLYNN. By whom was it signed?

Mr. MADDEN. By Mr. BLANTON, a member of the committee. It was in the Sixty-fifth Congress.

Now, if the statement made by the gentleman from Texas [Mr. BLANTON] as a member of this committee in a minority report states the facts, and I assume it does state the facts, there was no claim made by the man to whom the patent was granted or for the ejectment of the man who had settled upon the land; and if his statement of the California law be true, to the effect that if the man to whom the patent was granted had demanded the ejectment of the man who was in possession of the land, the man ejected would have the right under the California laws to collect every dollar that he had expended legitimately for himself. But no one demanded his ejectment; no one asked that he relinquish the land. He relinquished it voluntarily, made a request on the Federal Government for \$62 that he had paid when he entered the land, and that was all the claim he made. Now, it seems to me, if these are facts, there ought not to be any payment amounting to \$700 made to this man, because he has no claim against the Government whatever. He could have stayed on the land. He had six months more to stay. He would have had title to the land if he had stayed that length of time. He evidently did not want to stay. Nobody asked him to leave; he left of his own accord. Now, what do you want to do?

Mr. HERSMAN. I would like to make a statement. This bill with the recommendations was just handed to me by the gentleman from California [Mr. LEA], who has introduced it, and who asked me to bring it up.

Mr. MADDEN. I ask that it be postponed until Mr. LEA is here and until we get the facts in the case, if the gentleman does not know them.

Mr. BLANTON. Mr. Chairman, I ask for recognition in opposition.

Mr. HERSMAN. If there has been any minority report it has not been submitted to me. I asked the chairman of this committee, the gentleman from Pennsylvania [Mr. EDMONDS], if there was a minority report and he said there was not.

Mr. CURRY of California. That minority report was of the last Congress and not this Congress.

Mr. HERSMAN. That is what I wanted to find out, because I did not want to come before this Congress without having all the facts in the case.

Mr. CURRY of California. That minority report has no place on this floor. It is no minority report at all.

Mr. EVANS of Nebraska. Will the gentleman yield?

Mr. HERSMAN. Yes.



Mr. EVANS of Nebraska. What is the fact about the statement of the gentleman from California as to that State having what are generally known as the occupying-claims acts?

Mr. HERSMAN. I am not an attorney, and so I am not able to answer. I will ask the gentleman from California [Mr. RANDALL].

Mr. RANDALL of California. I am not an attorney, but I will say that whatever the law is in California on that subject has no application in this case whatever. The Government cancels the title, and the State of California and the courts of California have nothing whatever to do with it. The Government patented the lands of the original claimant 40 years before this second claim occurred, and the second claimant, after he had secured a patent and asked the title company for a title, the title company showed him the Government had patented the land many years before to another claimant.

Mr. McLAUGHLIN of Michigan. You say that the Federal Government or the Land Office canceled this second patent?

Mr. RANDALL of California. It had the same effect. The title company showed in the certificate of title that the Government had patented the land to the original claimant a number of years previously.

Mr. McLAUGHLIN of Michigan. What did the Land Office do?

Mr. BLANTON. I will answer the gentleman.

Mr. McLAUGHLIN of Michigan. What did the Land Office do? You said it canceled that second patent. What did it do in that direction?

Mr. HERSMAN. Here is the report of the Secretary in this case, in which he recommends that \$700 be allowed this man Englert for the value of the improvements and cash paid out. He says this:

It had been patented to other parties before the filing of his application therefor. This fact he duly verified and thereupon filed a relinquishment of his entry.

Mr. McLAUGHLIN of Michigan. Who did? This second man filed a relinquishment?

Mr. HERSMAN. Yes.

Mr. McLAUGHLIN of Michigan. Was it at the demand of the department?

Mr. HERSMAN. That does not appear in the report that I have before me.

Mr. RANDALL of California. Will the gentleman yield?

Mr. HERSMAN. I will.

Mr. RANDALL of California. That would be a necessary act on his part in order to recover his rights and take another homestead.

Mr. McLAUGHLIN of Michigan. He had no rights at all.

Mr. RANDALL of California. He had a right when the Government permitted him erroneously to enter the land. He had to relinquish his right to that entry so that he could make another one.

Mr. BLANTON. I will state to the gentleman that I made a careful investigation of this case, looked at all the proof offered by the claimant, and there was no action taken by the Government whatever to dispossess this man from the land, but after living upon it all these years, when in six months they would have given him a title against the claimant regardless of patent, he wanted to sell his land and went to an abstract company to have the abstract made, and they discovered the fact that years back, in 1880, the Government had issued a patent to a man named Dallas, of whom nobody had ever heard through all those years. Dallas did not claim the land; the Government did not ask the man to give it up, but as soon as he found it had been patented to a man named Dallas in 1880 he went to the Land Office and said, "I will file my deed of relinquishment," and said, "Pay me back the \$60 fee."

Mr. McLAUGHLIN of Michigan. The filing of the relinquishment was on his own accord?

Mr. BLANTON. Yes; there is not a scintilla of evidence here to show that the Government asked him to do it or a scintilla of evidence that Mr. Dallas, the patentee in 1880, asked him to do a thing about it. It was his own action. He got tired of his own title and got tired of his own land, and wanted to take up other land. And I want to say this, that not only in California, but in every State of this Union where a man in good faith, believing that he has a title to the land, places valuable improvements upon that land, if a prior claimant comes along with a better title and seeks to dispossess him, in every State of this Union it is the law that he plead in contravention for the amount of the reasonable value of the valuable improvements that he places upon that land in good faith.

Mr. STEENERSON. He must have color of title.

Mr. BLANTON. He had color of title, because the Government placed him on the land. That was his color of title. There can be no better color of title.

Mr. STEENERSON. Is there such a thing as color of title by adverse possession in California?

Mr. BLANTON. He had the right to demand the reasonable value of the valuable improvements that he placed there in good faith. But he did not ask for that. He wanted to get rid of it, and he gave the man who had patented in 1880 the possession of everything; he wanted to give him possession of everything he had, because when you sift it down you find he did not have much. You may imagine that he placed a house there, but it is shown by the evidence that whatever little shack he placed on that land, it amounted to only a few dollars' worth.

Mr. MADDEN. A 12 by 20 house.

Mr. BLANTON. Yes; 12 by 20. If my good friend from California [Mr. RANDALL] had known as much about this case as he knows about national prohibition he would not be speaking on this floor here in defense of the California claimant, because he is a just man.

Mr. RANDALL of California. The gentleman from California [Mr. HERSMAN] talks about Government public land in California. The gentleman from Texas [Mr. BLANTON] is talking about private ownership land. The law has no application to Government land.

Mr. EVANS of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. HERSMAN. Yes; I yield.

Mr. EVANS of Nebraska. What I want to know is, Did he get a patent from the Government?

Mr. BLANTON. Not that I know of. He was placed in possession of the land. His holding and color of title would have ripened into a patent if it did not do so.

Mr. EVANS of Nebraska. May I ask the gentleman if it was a homestead or a timber claim? What was the character of the claim?

Mr. BLANTON. It was a homestead claim.

Mr. EVANS of Nebraska. How long had he been there?

Mr. BLANTON. Four years and a half.

Mr. EVANS of Nebraska. Has California a statute permitting a person who holds adversely to recover for improvements?

Mr. BLANTON. Yes; if he had color of title. Every other State has that law.

Mr. HERSMAN. I do not think every State has that law.

Mr. CARAWAY. I would like to say that that is not the law in my State.

Mr. HUDSPETH. Mr. Chairman, will the gentleman yield?

Mr. HERSMAN. Yes.

Mr. HUDSPETH. I notice in the report of Secretary Lane that when this gentleman, Mr. Englert, discovered that this land had been patented prior to his entry he relinquished all claim. Evidently he must have had a patent or some title or he could not have released to the Government his claim of title. I see that in the report of Secretary Lane.

Mr. HERSMAN. This ex-soldier went on this land in good faith to make a home for himself. He got a patent from the United States Government on this land. It afterwards developed that the United States Government had given patent to the same piece of land in 1880. The records in the San Francisco land office were not straight. Let me read you what the department says about the records in San Francisco. This letter was written from the Department of the Interior and was directed to the register and receiver of the land office at San Francisco. It was written on March 27, 1916, just after this man found that he did not have a title to his land. The Government had issued two patents on the same piece of land. I will read from the letter:

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
Washington, March 27, 1916.

Examine and correct your records.

REGISTER AND RECEIVER,  
San Francisco, Calif.

SIRS: The attention of this office has been called to the fact that you insist that patent issued to Arthur Wendle Englert, upon commuted cash certificate 04954, August 7, 1914, has no conflict and is valid, when as a matter of fact the NE.  $\frac{1}{4}$  NE.  $\frac{1}{4}$  sec. 16, T. 16 N., R. 17 W., Mount Diablo meridian, with the balance of said section and other lands was patented to Alexander Grant Dallas June 1, 1880, upon S. F. cash certificate No. 6891.

It appears that this certificate was issued by your office in accordance with office letter "G" of August 1, 1878, under the seventh section of the act of July 23, 1866. (14 Stat., 218.)

The Government having divested itself of all title to the NE.  $\frac{1}{4}$  of NE.  $\frac{1}{4}$  of said section by the issuance of patent to Dallas, the patent issued to Englert is a nullity. Upon receipt of this letter you will correct the records of your office accordingly.

You will see that the San Francisco office insists that it was valid. The Washington office writes to the San Francisco office: "You will correct your records, so that they will be true and the public will be safeguarded."

This man would never have entered upon this land, this ex-soldier would never have expended four years in developing



this land, if the records of the San Francisco land office had been correct.

Mr. HUDSPETH. Mr. Chairman, will the gentleman yield again?

Mr. HERSMAN. Yes.

Mr. HUDSPETH. I see by the report of Secretary Lane that he recommends that the gentleman be reimbursed in the sum of \$749. I personally would be inclined to follow the commissioner in his report or follow the Secretary. Will the gentlemen tell me why the committee cut it down to \$500?

Mr. HERSMAN. I do not know why the committee cut it down to \$500, except that the chairman of the committee said to me, when I asked him about it, that certain items possibly ought not to be included. The committee cut it down to \$500, but the Secretary recommended that the ex-soldier be paid \$749.50.

The sworn testimony of three men have placed the damages at from \$700 to \$900. This ex-soldier, who fought for his country, is only asking that the United States Government recompense him to the amount of damages that he was out in actual cash outlay, not for loss of time, not for the money that he paid to the Government, because we are paying him only \$500, when the affidavits show a very much larger amount. Under the bill he is asking \$500. I say this soldier is asking to be recompensed for an error that was clearly the fault of the San Francisco land office.

Mr. MADDEN. This gentleman is asking pay for witnesses and advertisements and all kinds of expenses.

Mr. HERSMAN. His itemized bill is \$811, but the committee only allow \$500, and he will not be paid for those things under this bill. That is what I meant to imply.

Mr. STEENERSON. Mr. Chairman—

Mr. HERSMAN. I yield to the gentleman from Minnesota.

Mr. STEENERSON. I desire to take the floor in my own right.

Mr. HERSMAN. I have the floor, but I will yield to the gentleman. How much time have I?

The CHAIRMAN. The gentleman from Connecticut yielded to the gentleman from California such time as he desired up to one hour.

Mr. HERSMAN. How much time have I remaining?

The CHAIRMAN. The gentleman has 22 minutes remaining.

Mr. HERSMAN. Will five minutes be sufficient?

Mr. STEENERSON. Yes.

Mr. HERSMAN. I yield to the gentleman from Minnesota five minutes.

Mr. STEENERSON. Mr. Chairman, this case is very similar to many cases that have occurred in nearly every public land State. In my own State a great many settlers went upon land that was embraced in land grants, and after making improvements it turned out that the title was in the railroad company, and they had to give up their land. In such cases the only remedy they had was to apply for the purchase money if they had purchased land under the preemption law, and I remember a case last year from my district where the people had improved the land for about 30 years, but in a suit brought by the Great Northern Railroad Co. the title was decreed to be in the railroad company. They were in a different position from this man, because the title had never passed from the United States until recently, so that they could not plead adverse possession.

Now, this man was on land that was patented to a private party in 1880. Consequently title by adverse possession was available to him, and it is stated here, and I have no doubt it is true, that in California adverse possession gives title in five years. In some States it takes 5 years, in some 10, in some 15, and in some 20; but in any event it is stated by the gentleman from Texas that they have an occupying claimants' act there, so that the man who takes possession of land under color of title—which a homestead receipt from the Land Office would be, within the meaning of the law—would have the right, when the party who claimed title tried to evict him, to set up the value of his improvements, all of them, and have a jury trial to determine the value of those improvements; and before possession was decreed to the plaintiff he would have to pay that price. Now, it seems to me if we grant this relief here, we are placing this man from California upon an entirely different footing than any other man in the United States. I venture to say that there have been hundreds of settlers in Minnesota who have gone upon public lands, got a receipt from the Land Office and made improvements, and afterwards it turned out, under decisions of the courts, that the title was in the railroad company, and all they got was a return of the purchase money. There is a general law giving them that. No doubt this man could have availed himself of that. The papers in a case of this kind passed through my hands only a year ago, concerning 80 acres of land in my district,

where they had to file a deed to the United States before they could get back the purchase money, and to furnish an abstract showing that the title had been adjudged to have passed under a prior grant. That has happened frequently in every public-land State ever since the public-land laws were enacted. If we grant this man, in addition to the return of his money, the value of his improvements, we are giving him something that no other settler has received. It seems to me the claim is unjustified, and we are establishing a bad precedent that will come back to plague us in the future.

Mr. HERSMAN. I yield to the gentleman from Arkansas [Mr. CARAWAY] five minutes.

Mr. CARAWAY. Mr. Chairman, it is conceded that this man has no legal right of recovery. If he had a legal right, the claim would not be here on this calendar, because he could have gone to the courts or have gone to the department and have recovered. I know the practice prevails of the Government making all the mistakes it sees fit—and it can make more than anybody—and then saying to the citizen, "You will have to suffer." The question here is simply one of good faith. If this case were reversed—I am not talking about the laws of California now, for I am without any specific knowledge of the laws of that State, but I know the law in my own State—if a citizen were to sell a piece of land and warrant the title, and afterwards the title were to fail, he could sue the man who gave the warranty and recover the purchase money. In this particular case the party who warrants the title is the Government itself. I realize the Government does not warrant the title but should. It says, "Here is a piece of land that belongs to the Government. If you will do certain acts it will give you title to it." The man complies in good faith with the Government's requirements and acquires what he supposes to be a title and makes valuable improvements. Then through the negligence of an officer of the Government he loses his land and loses his improvements. Now, in good faith can we say that the Government ought not to pay to him what his losses have been? The gentleman from Texas [Mr. BLANTON] undertook to state the laws of all the States, and he missed every one that I know anything about.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HERSMAN. How much more time have I?

The CHAIRMAN. The gentleman has 12 minutes.

Mr. HERSMAN. I yield to the gentleman from Arkansas five minutes more.

Mr. CARAWAY. I never did think that the Government ought to plead the statute of limitations or avail itself of its own mistakes to defeat a citizen in his claim against the Government. As a private individual I would not do either of those things, and there is not a gentleman who is a Member of this House who would do it, either. There is no gentleman here who would plead the statute of limitations against a just claim.

Mr. BUTLER. Suppose the other fellow goes to sleep on his rights until the opportunity to prove my side of the case has disappeared? Would I not be justified in pleading the statute of limitations?

Mr. CARAWAY. The gentleman might be justified, but he would not do it.

Mr. RANDALL of California. The other man did not go to sleep on his rights. His rights were not questioned until he appeared at the Land Office.

Mr. BUTLER. I am only asking the gentleman's opinion, because I have a great deal of confidence in the gentleman and in his correct way of looking at things.

Mr. CARAWAY. I hope these compliments will not be taken out of my time. I do not think this old gentleman acted possibly with the very best judgment. If he was a soldier in the war of 1848, he is getting old. I suspect that if he had consulted a lawyer he might have advised him that if he wanted to acquire title he could stand on his claim and get title by adverse possession.

But, with all due deference to people who take a different view, I have always thought that taking title by adverse possession is questionable. It is a way of acquiring property that I would not and you would not do. I would not want anything I got by reason of the fact that somebody who had the actual title overlooked the fact that I was ripening a title adverse to him.

I think this shows the old gentleman to be a man of a fine sense of honor; that instead of staying six months longer, as the gentleman from Texas suggested, thereby stealing somebody's piece of land, when he discovered it was not his he went back to the Government and said this property was not the Government's, that the Government had no right to give him a title to it, that it belonged to another man, that he did not want to take his property away by adverse possession, and he yielded back whatever title the Government undertook to give him.



Mr. BLANTON. How does the gentleman from Arkansas know that the man, Dallas, to whom the patent was issued in 1880, did not himself receive a patent that was contrary to the provisions of law and that he was not the lawful owner, or else he would not have gone off and left it?

Mr. CARAWAY. The gentleman from Texas was on the committee, and if such a state of facts had been true he would have developed it. I have absolutely no doubt that the gentleman knew he could retain his title by adverse possession, but he did not care to do it. It is a question of good faith. Neither I nor you would receive property under such circumstances, and I am not willing that the Government should do it. It does do it, as the gentleman from Minnesota says. It always treats the citizen as if he had no rights at all. Thousands of acres in my own State and district the Government disclaimed title to, and people went on it and made valuable improvements, then the Government asserted its title and the citizens were kicked out, but it did not make it right. I am not going to be a party to help my Government break a contract which in good conscience it ought to meet. [Applause.]

Mr. HERSMAN. Mr. Chairman, I yield to the gentleman from Connecticut [Mr. GLYNN].

Mr. GLYNN. Mr. Chairman, something has been said about a minority report. As a matter of fact, there is no minority report in this Congress. A minority report was made by the gentleman from Texas [Mr. BLANTON] two years ago, when he was on the committee, but he is not a member of the committee to-day. He did not seem to be able to convince any other member of the committee that his views were correct. I think we have had a good deal of debate on this, and I move that the bill be laid aside with a favorable recommendation.

The CHAIRMAN (Mr. GREEN of Iowa). The Clerk will read the bill for amendment.

The Clerk read the bill for amendment.

Mr. BLANTON. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 1, line 7, strike out the figures "500" and insert in lieu thereof the figures "62."

Mr. BLANTON. Mr. Chairman, I think in all good conscience and justice to the man he should be paid back \$62, the amount of the fees he paid to the Government. The Government received this amount of fees. It is not certain that he received them back. He may have received them, but we do not know that he has. I would like to be sure that he has received that money back.

Mr. CARAWAY. On what theory? If he is entitled to one he is entitled to the other.

Mr. BLANTON. He paid certain money into the Treasury.

Mr. CARAWAY. Yes; and he paid certain money for improvements.

Mr. BLANTON. But the Government received no benefit from the improvements. If every Member would get the papers and see what these improvements consisted of that he placed on this land, you would get rid of that bugaboo that there were improvements to any great extent. That is the reason he did not make any claim against the original patentee under the law of California for valuable improvements made in good faith. He did not have enough there to press the claim.

Mr. RUCKER. Will the gentleman yield?

Mr. BLANTON. Yes.

Mr. RUCKER. Does not the gentleman think he ought to deduct from the \$62 a reasonable rental of the property during the time the man lived on it?

Mr. BLANTON. No. He did stay on it, and if it was like it is in some places it would be worth something and it would have been a proper deduction, but I do not think we ought to pay this man for trips that he made here and there which he claimed in his account in an effort to get this land. I have known good men to go into west Texas seeking a home, who believed they got a good title from the State, who have gone on the land and made valuable improvements, spent money in placing it in cultivation, and in after years found out that there was a superior title, but Texas does not make anything good except to pay back the money it has received. That is what the State of Texas does. I do not know what the State of Arkansas does. I did think that there was a law in Arkansas—I was giving Arkansas the benefit of the doubt when I said the law existed there where a man in a bona fide belief that he had good title in good faith placed valuable improvements on the land and lived on it for one, three, or four, or even, as was done in this case, four and a half years to the exclusion of everybody else, that whenever an adverse claimant should jump up and try to take it away—I gave Arkansas the credit of having a law that would allow the man to go into

the courts in reconvention and recover the reasonable value of the valuable improvements that he had placed on the land in good faith.

Mr. CARAWAY. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. BLANTON. If I had the time I would gladly yield.

Mr. McLAUGHLIN of Michigan. Mr. Chairman, I am opposed to the amendment offered by the gentleman from Texas [Mr. BLANTON], and wish to say that I agree heartily with everything the gentleman from Arkansas [Mr. CARAWAY] has said, that the Government of the United States ought to act honorably and fairly and decently with its citizens in all the business it transacts with them. This is not an unusual case. I have had considerable experience with the land office in my own State of Michigan and with the Land Office here. I wish to say that in my judgment the Government does not always conduct itself creditably. If it were a private individual carrying on private business, it, or somebody representing it, would be haled into court so quick it would make his head jar. Any court or jury in the country would render judgment against an individual right off the reel; the courts would not stand for such conduct as the Government, through some of its officials, are guilty of. And I do not wish to reflect too severely on the officials; they are not to blame; it is the system that has grown up. Perhaps Congress is at fault for not having taken notice of it and for not enacting laws that compel the Government to play fair in all cases and to meet promptly every obligation, legal or equitable. I know of a case in my own district where a woman school-teacher found a piece of land, near by, which, according to the records of the Land Office, was open to homestead entry. She made the proper filing, went upon the land, and improved it to the extent of \$2,500. Later she learned that a prior patent had been issued. She appealed to the Land Office for reimbursement or for some relief from the serious position in which she was placed because of their mistake. There was no relief for her in the department; they simply said that she must take her chances when she dealt with the Government. The gentleman from Arkansas [Mr. CARAWAY] is wrong in one particular, if he will pardon me, when he says that a patent from the Federal Government is a warranty deed, or that when the Government issues a patent or promises to, it promises to convey a title as by a warranty deed. When that matter was put up in the particular case I speak of, and the department was told that it warranted the title, it said no; that the patent it issues is only a quit-claim deed; that those who do business with the Government must take their chances as to the title. Think of it! Take their chances on being trimmed by the Government of the United States and in an unconscionable way, I submit! The Government ought to be made to play fair. The conscience of the Government ought to equal the combined conscience of all the people of the country. [Applause.] An individual would not be permitted to do business that way, but the great Government of the United States does it and gets away with it.

How much is the claimant in this case entitled to? I submit we should go by the proof as here presented. It has been asked how it happens that he did business with the Government after he was told that the title he had undertaken to secure was of no value. Here is a letter written by the Assistant Commissioner of the Land Office to the Hon. William Kent, a former Member of this House, well known to many of us, in which Mr. Kent was told to have the man return his papers to the Land Office, and he would receive the sum he had paid, \$62. That is how he came into communication with the Land Office, after he learned that his Government, for which he had fought as a soldier, had taken his good money and issued him a bogus deed. He was certainly entitled to the \$62, but there is evidence that he never received it. The testimony of several witnesses is—and I have read each of the affidavits, and I presume they are entitled to credit, otherwise the committee would not have reported them—that a house was built, and each of the witnesses says it was worth \$125. Each of the witnesses, experienced in that part of the country, knowing what labor and material are worth, says that the man did all of the work on the place that any man could reasonably be expected to do in 14 months, and they place a value on what the man did along that line. They tell about the building of a house, the building of fences, and of the planting and cultivating and caring for an orchard, and of making other improvements. They say those improvements are reasonably worth \$525.

I think we would not be justified in disregarding that testimony. I think the man, having been buncoed by his Government, is entitled to every dollar that he can possibly get; all he can get will only reasonably reimburse him. He is entitled to every dollar he can get, certainly every dollar the committee



recommends he should have. I am in favor of paying the amount the bill carries.

Mr. HUDSPETH. Mr. Chairman, I move to strike out the last two words, and wish to speak in opposition to the amendment of my colleague, Mr. BLANTON. I have always believed in old-fashioned honesty, either in the Government or in the individual. At one time the great State of Texas attempted to repudiate its obligations. It attempted to cancel the leases upon its school lands, and Chief Justice Gaines, one of the greatest jurists who ever sat on the Supreme Court of Texas, said, "You can not do it; you must live up to your obligations." Again, the great State of Texas attempted to confiscate a man's property as is done in this instance, where he settled upon the land, and, through some error of the land commissioner, was ousted. The State of Texas, through its legislature, attempted to take away his windmills, his houses, and improvements, and Chief Justice Gaines, speaking for our great supreme court in Texas, again said they could not do it, that he should be paid for his improvements, and he was paid. I believe in holding the Government to as strict accountability as holding an individual to comply with his every contract.

My colleague from Texas [Mr. BLANTON] says to pay him the pitiful sum of \$62. Let us take the statement of the Hon. Franklin K. Lane, Secretary of the Interior. What improvements did he put on that place? If he is entitled to \$62, he is entitled to every dollar that he put on there. The testimony of Mr. Ferris, a creditable witness, I presume, for Mr. Lane quotes him, is to the effect that he built a two-room house and a shed and dug a well and built a quarter of a mile of fence and cleared and planted a field. This witness says that the total value of the improvements he put on the land amounts to \$900. Yet my colleague says that it is an exaggerated statement, and he wants to pay him back the pitiful sum that he paid out, \$62.50, and let him go for the rest. I say that I have confidence in this Claims Committee. If I did not have and did not believe they made a full and complete investigation into this claim, I would vote to give him every dollar that Mr. Lane said he ought to have, and that is \$749.

I believe Secretary Lane made a full, fair, and complete investigation of this matter, and I would be willing to follow the great Secretary of the Interior in this case as in all others. But as this committee has reported here—and there is no minority report, gentlemen, on this bill—I do not think we can take cognizance of a report made two or four years ago; I do not find any minority report—but the unanimous report is that this old man who fought for his country, who was entitled under the law of his country to take up 40 acres of land and did take it up and made improvements thereon in good faith, and when he found another party had title, as was well stated by the gentleman from Arkansas, he relinquished it and did not take title by limitation which I have always believed was dishonest, although it is permitted in my State. I say this claim ought to be paid; this amount ought to be given him without a single dissenting voice on this floor, in my judgment. [Applause.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas.

The question was taken, and the Chairman announced the yeas appeared to have it.

On a division (demanded by Mr. BLANTON) there were—ayes 1, noes 54.

So the amendment was rejected.

Mr. GLYNN. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The motion was agreed to.

JOHN A. GAULEY.

The next business in order on the Private Calendar was the bill (H. R. 2396) for the relief of John A. Gauley.

The Clerk read the title of the bill.

Mr. GLYNN. Mr. Chairman, I move that this bill be passed over without prejudice.

The motion was agreed to.

EASTERN TRANSPORTATION CO.

The next business in order on the Private Calendar was the bill (H. R. 5346) for the relief of the Eastern Transportation Co.

The CHAIRMAN. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 5346) for the relief of the Eastern Transportation Co.

*Be it enacted, etc.,* That the claim of the Eastern Transportation Co., a corporation organized and existing under the laws of the State of Delaware, and doing business in the city of Norfolk, Va., owner of the barge *Sweetser Linthicum*, against the United States for damages alleged to have been caused by collision between the said barge and the United States barge *Old Dominion*, in tow of the United States tug *Sagamore*, in Chesapeake Bay, on the 25th day of August, 1918, may be sued for by the said Eastern Transportation Co. in the district court of the United States for the eastern district of Virginia, sitting as a court of ad-

miralty and acting under the rules governing such court, and said court shall have jurisdiction to hear and determine such suit and to enter a judgment or decree for the amount of such damages and costs, if any, as shall be found to be due against the United States in favor of the Eastern Transportation Co. or against the Eastern Transportation Co. in favor of the United States upon the same principles and measures of liability as in like cases in admiralty between private parties and with the same rights of appeal: *Provided*, That such notice of the suit shall be given to the Attorney General of the United States as may be provided by order of the said court, and it shall be the duty of the Attorney General to cause the United States attorney in such district to appear and defend for the United States: *Provided further*, That said suit shall be brought and commenced within four months of the date of the passage of this act.

Mr. GLYNN. Mr. Chairman, I yield to the gentleman from Virginia [Mr. HOLLAND].

Mr. HOLLAND. Mr. Chairman, the sole purpose of this bill is to authorize a suit in the United States district court to determine the liability, if any, of the United States Government for damages occurring out of a collision between a barge operated by the Eastern Transportation Co. and another barge operated by the United States Government. It has a favorable recommendation by the Assistant Secretary of the Navy who says the bill ought to pass. I hope there will be no opposition.

The CHAIRMAN. The Clerk will read the bill for amendment.

The bill was read for amendment.

Mr. HOLLAND. Mr. Chairman, I move the bill be laid aside with a favorable recommendation.

The motion was agreed to.

JOHN T. ADAMS.

The next business in order on the Private Calendar was the bill (H. R. 5807) for the relief of John T. Adams.

The CHAIRMAN. The Clerk will read the bill.

The Clerk read as follows:

A bill (H. R. 5807) for the relief of John T. Adams.

*Be it enacted, etc.,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to redeem, in favor of John T. Adams, of Frankton, Ind., United States coupon bonds of the 3 per cent loan of 1908 to 1918 (numbered 43361 and 50623 for \$500 each), with interest from November 1, 1910, the said bonds, with coupons attached, dated February 1, 1911, to maturity of the loan, inclusive, having been stolen: *Provided*, That the said John T. Adams shall first file in the Treasury Department a bond in the penal sum of double the amount of the principal and the unpaid interest coupons of the said bonds, in such form and with such surety as may be acceptable to the Secretary of the Treasury, to indemnify and save harmless the United States from any loss on account of the stolen bonds hereinbefore described or the coupons belonging thereto.

Mr. GLYNN. Mr. Chairman, I yield to the gentleman from Indiana [Mr. VESTAL].

Mr. VESTAL. Mr. Chairman, this bill is to reimburse Mr. Adams, of Frankton, Ind., for two Spanish-American War bonds of denomination of \$500 each, which were stolen in 1911. The bonds draw 3 per cent. The bonds matured in September of last year—1918. As soon as the bonds matured I took the matter up with the Secretary of the Treasury and was informed that the only way Mr. Adams could be reimbursed for this money was by special act. I then introduced at the last session of Congress a bill for his relief. The bill was favorably reported at that time, but—

Mr. GARRETT. Will the gentleman yield?

Mr. VESTAL. Certainly.

Mr. GARRETT. I have not read the report, but from the reading of the bill I understand that these bonds were stolen. If they were coupon bonds, how is it possible by the execution of a bond on the part of the person who lost them to protect the Government?

There is nothing about the coupons to indicate their number in any way. There is no way in which the Government can hold up payment of the interest called for by the coupons. Presumably, if they were stolen the thief has already cashed the coupons.

Mr. VESTAL. No; the bonds are numbered and the department says that none of the coupons have come in, and the coupons are numbered also, but none of them have come in for payment.

Mr. GARRETT. So there will be no difficulty, then, in the matter?

Mr. VESTAL. So the Treasury tells me.

The CHAIRMAN. The Clerk will read the bill for amendment.

The bill was read for amendment.

Mr. GLYNN. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The question was taken, and the Chair announced that the yeas appeared to have it.

On a division (demanded by Mr. BLANTON) there were—ayes 36, noes none.

So the motion was agreed to.



## EMMA J. SPEAR.

The next business in order on the Private Calendar was the bill (H. R. 3211) for the relief of Emma J. Spear.

The CHAIRMAN. The Clerk will read the bill.

The Clerk read as follows:

A bill (H. R. 3211) for the relief of Emma J. Spear.

*Be it enacted, etc.,* That Emma J. Spear, mother of Henry W. Spear, late of Troop M, Second Regiment United States Cavalry, shall be regarded as the duly designated beneficiary of the late Henry W. Spear, under the act approved May 11, 1908, as amended by the act approved March 3, 1909.

Mr. GLYNN. Mr. Chairman, I yield to the gentleman from Louisiana [Mr. DUPRE].

Mr. DUPRE. Mr. Chairman, this is a conventional bill to supply the beneficiary where none is designated of a deceased soldier to receive the six months' gratuity. He had originally designated his father, but his father died. As I say, he failed to designate any other beneficiary, and the object of this legislation is to give the six months' gratuity to his widowed mother. The measure has passed the House in previous Congresses.

The bill was read for amendment.

Mr. GLYNN. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The question was taken, and the Chair announced that the ayes seemed to have it.

Mr. BLANTON. Division, Mr. Chairman.

The committee divided; and there were—ayes 25, noes none.

So the motion was agreed to.

The CHAIRMAN. The Clerk will report the next bill.

## MRS. MAMIE DUFFER.

The next business on the Private Calendar was the bill (H. R. 1266) for the relief of Mrs. Mamie Duffer, of Shannon, Miss.

The bill was read, as follows:

A bill (H. R. 1266) for the relief of Mrs. Mamie Duffer, of Shannon, Miss. *Be it enacted, etc.,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to include within the permitted class of persons entitled to be designated as beneficiaries under the terms of the war-risk insurance act Mrs. Mamie Duffer, of Shannon, Miss., the foster mother of Wilfred Osborne Duffer, formerly a member of the Seventy-fourth Company, Sixth Regiment United States Marine Corps, who was killed in action in France July 19, 1918, the said Mrs. Mamie Duffer having been named as beneficiary in an insurance policy applied for by said Wilfred Osborne Duffer.

That the proceeds of the policy shall be paid to Mrs. Duffer in accordance with the law in such cases made and provided.

The CHAIRMAN. The Clerk will report the bill for amendment.

The bill was read for amendment.

Mr. GLYNN. I yield to the gentleman from Mississippi [Mr. CANDLER].

Mr. CANDLER. Mr. Chairman, I ask that the bill be laid aside with a favorable recommendation.

Mr. CANNON. What is the necessity for this legislation, she having been designated?

Mr. CANDLER. It arose in this way: This is a claim for insurance made on account of the death of Wilfred Osborne Duffer, late a member of Seventy-fourth Company, Sixth Regiment, United States Marine Corps. Mrs. Mamie Duffer and her husband, Mr. R. O. Duffer, took this boy, Wilfred Osborne Duffer, when a little infant child, out of an orphan's home when he was only eight months old, a little orphan having neither father or mother or other kin, so far as is known. She and her husband intended to adopt him, and firmly believed they had done so, by reason of the fact that the orphan's home furnished them articles of adoption, copies of which are printed in the report. The proper officer of the orphan's home signed these articles of adoption and delivered them to Mr. and Mrs. Duffer when they received the child into their custody. The boy remained with them until he was about 20 years old; was in their possession, custody, and control for over 19 years, believing himself during that time to be their child. They stood absolutely "in loco parentis." He never knew any other father or mother except Mr. and Mrs. Duffer. Mr. Duffer had died, leaving Mrs. Duffer a widow without children except this boy. When the war broke out he did not wait to be drafted, but on April 17, 1917, early in the war, he volunteered and went into the service. He was a brave, patriotic, red-blooded, courageous American, who wanted to serve his country in her hour of peril. [Applause.] On the 19th day of July, 1918, while in action on the battle field in France, he was killed. In the meantime he had made application and secured this policy of insurance for \$10,000 in favor of Mrs. Duffer. In his application he named as his beneficiary "my mother," Mrs. Mamie Duffer, quite naturally, for she was the only mother he knew. He believed she was his mother, because with his baby eyes he saw her first as mother and with his first baby words he was taught to call her "mother," and did so until he fell on the glory field of honor and made the supreme sacrifice. [Applause.]

It developed, when the War Risk Bureau called on Mrs. Duffer to make proof, that the boy had not been legally adopted; that is, he had not been adopted by regular order or decree of court, and because the boy was not so adopted by regular process and solemn decree of court the War Risk Bureau held they could not pay the policy, and declined to do so. They say they are ready and anxious to pay it, but can not legally do so because of that small technicality, but will do so if this bill is passed. That is the case. To pay the money to Mrs. Duffer will carry out the will and purpose of this boy who died for his country. That is what I want to do, and I hope all will support and none oppose this bill. [Applause.]

That noble soldier boy, Wilfred Osborne Duffer, bought and paid for this insurance not only with his money, deducted from his soldier pay, but he purchased it with his patriotic, sacrificial blood willingly shed for his country on the field of battle in a foreign land, and he said I want "my mother," Mrs. Mamie Duffer, to have the \$10,000 thus secured for her. I do not believe there is a Member of Congress who would deny it to her. She ought to have it, therefore I trust you all will vote for the bill. [Applause.]

I move that the bill be laid aside with a favorable recommendation.

Mr. HUDDLESTON. Mr. Chairman, I make a preferential motion to strike out.

This case appeals very strongly to my sympathies, and I know it does to every Member of the House, but it is one of a good deal more importance than I fear some Members conceive. Under the facts of this case, this boy having designated some one as his beneficiary who was not eligible to be designated as the beneficiary, it is the same under the law as though he had designated no beneficiary at all, and the insurance upon his death became payable to his next of kin. Upon his death the right to this insurance vested in his next of kin. Now, that is a vested interest or right and is protected by the fifth amendment to the Constitution and can not be taken away from his next of kin by any act of Congress. We propose by the pending bill to change the beneficiary of this insurance. We are saying that the next of kin, whom the law has designated as beneficiaries, shall not receive this insurance, but it shall be paid to some one else. Now, the net result of all this will be that this lady will get this insurance—and I am glad to see her get it, of course—and also the next of kin, who have this vested interest that can not be taken away from them by any act of Congress, will also get it. The next of kin can file their claim and collect the same amount from the Government. In other words, we are fixing it so that the Government will have to pay this insurance twice.

Now, the rights of the next of kin do not depend merely on the favor of the Bureau of War Risk Insurance. They may bring suit in any district court and obtain a judgment against the Government for this amount; also the beneficiary under this bill can take the same steps and collect the money over again.

Mr. VAILE. Does the gentleman contend that they can get a judgment against the mother after this legislation is passed?

Mr. HUDDLESTON. No. What I say is this—and I thought I had made it clear—that the next of kin of this deceased soldier, having a vested interest to this insurance which can not be taken from them by act of Congress, may maintain a suit against the United States for that insurance and collect it, and payment to the foster mother will constitute no defense to the action.

Mr. CANDLER. Mr. Chairman, will the gentleman yield?

Mr. HUDDLESTON. Yes.

Mr. CANDLER. This record shows that the father and mother of this boy were dead. So far as the record shows, he has no other next of kin.

Mr. HUDDLESTON. It is an extraordinary case, if there are no next of kin, I will say to the gentleman from Mississippi. It is an almost unheard-of and incredible case that a man has no relatives whatever of any degree.

Mr. CANDLER. The gentleman is assuming that there is some one next of kin when the record shows that there is no next of kin.

Mr. HUDDLESTON. They may be undiscovered and may be unknown now, but they may turn up to-morrow. My observation is that heirs usually do turn up when there is anything to be had by turning up. I think it is fair that this committee should consider this case in the light of the facts that we are creating a double liability on the Government.

Mr. ROSE. Mr. Chairman, will the gentleman yield?

Mr. HUDDLESTON. Yes.

Mr. ROSE. I am of the opinion that the conditions here cited by the gentleman raise a serious question; that if it is possible that there are next of kin, I have no doubt in my own mind that



they can prosecute successfully a claim against the Government. But the reason why I rose was to ascertain whether or not I am correct in the opinion that we have recently passed legislation to correct just this situation?

Mr. HUDDLESTON. The House has passed a general bill similar in application to this particular bill and which would render this bill useless. It has almost this identical provision in it. That is the reason I speak with such confidence. At the time that bill was under discussion in the House I gave the matter careful consideration, and I then expressed the view that I have expressed here. I think it due to the committee to say so, although, of course, I sympathize deeply with the foster mother, for whose benefit this bill is presented. It was a mistake to pass the original law in that form.

Mr. HASTINGS. Mr. Chairman, I had a case exactly like this. I have had occasion to make some investigation of it myself. In that case, as in this case, the party designated the beneficiary, and designated his mother as the beneficiary.

Mr. BLANTON. Mr. Chairman, I think we ought to have a quorum. I make the point of order that we ought to have a quorum.

Mr. CANDLER. Oh, I hope the gentleman will not do that.

Mr. BLANTON. We have done to-day the biggest day's work this Congress has yet done, in passing Senate resolution No. 15.

Mr. HASTINGS. Mr. Chairman, I did not yield the floor.

The CHAIRMAN. Does the gentleman from Texas desire to insist upon his point of order?

Mr. BLANTON. If there is not going to be a prolonged discussion, I will withdraw it.

The CHAIRMAN. The gentleman withdraws his point of no quorum.

Mr. HASTINGS. I have not much more to say, Mr. Chairman. I arose more to reply to the discourtesy of the gentleman from Alabama [Mr. HUDDLESTON] than anything else. I have always tried to be courteous to Members on the floor. I did not intend to try to break in for the purpose of being discourteous to him.

Mr. HUDDLESTON. Will the gentleman yield and allow me to apologize?

Mr. HASTINGS. Very well.

Mr. HUDDLESTON. I would have yielded if the gentleman had done me the courtesy to ask permission to interrupt.

Mr. HASTINGS. That is all right. I have no more to add.

Mr. CANNON. Mr. Chairman, I want to ask a single question. Is it true that the next of kin, this deceased soldier not having a mother in fact, and not having been legally adopted—is it true that the next of kin, after this legislation is had, as stated by the gentleman from Alabama [Mr. HUDDLESTON], can bring suit in the Federal court?

Mr. HASTINGS. I did not state that. I stated positively as my judgment that it can not be done, because if this policy is not a valid policy, there is no policy, and this is attempting to make this one valid. Otherwise there is no one, and no suit can be brought.

Mr. CANNON. If there be a next of kin—

Mr. HASTINGS. If they can not designate this person as beneficiary, then there is no legal policy, and there can be no liability. This is attempting to cure that defect.

Mr. PARRISH. If the gentleman will permit, the next of kin would not come in unless the policy was payable to a party certain and that party had died.

Mr. HUDDLESTON. I want to suggest to the gentleman that under the law when the policy is made payable to some one not eligible under the law to receive it, it becomes payable to the next of kin, as if that party had been named in the policy, so that this policy must be construed to-day as if it read payable to the boy's next of kin, whoever that may be.

Mr. CANNON. What is the amount of the policy?

Mr. CANDLER. Ten thousand dollars.

Mr. CANNON. If that is so, it seems to me the House ought not to pass this bill.

Mr. CANDLER. I disagree with the gentleman as to that. I do not think his contention is valid. The House has passed a prior bill of a general nature.

Mr. HUDDLESTON. The House passed the bill, but it has not become a law. The Senate has not passed it.

Mr. HASTINGS. The House has decided against the contention of the gentleman from Alabama, I think, by an overwhelming majority.

Mr. CANNON. Let me ask another question, because sincerely I was ready to vote for this bill. If the next of kin has a vested right, is it in the power of Congress by legislation to cut out the next of kin?

Mr. CANDLER. The next of kin has no vested right.

Mr. HASTINGS. The very dispute revolves around that one point. Of course, it is our contention that the next of kin has

no vested right, and Congress has so decided in the general legislation it has passed.

Mr. LANKFORD. In this case, where the foster mother thought she had adopted the boy, and the boy thought he had been adopted, and they lived for years as though there had been an adoption, if in fact there was not a legal adoption I am confident that there was an equitable adoption, which under the law would cut out the next of kin, and the foster mother could recover the money, and the next of kin regardless of the passage of the act could not get it.

Mr. CANNON. This legislation cutting out the next of kin has not passed?

Mr. GREEN of Iowa. It has passed the House.

Mr. CANDLER. It has passed the House.

Mr. CANNON. But that would be of no force if the next of kin has a vested right.

Mr. CANDLER. The next of kin have no vested right, because of the fact that the right is not vested in them at all. This boy himself directs exactly who shall receive the money, and this is to validate his purpose, his intention, and his designation, made by himself. The passage of this bill will ratify it.

Mr. LANKFORD. I think it is clear in this case that there was really an equitable adoption.

Mr. ROSE. I assume that this boy had the right to name this woman as his beneficiary.

Mr. CANDLER. There was no law to prevent it, and this is to validate his designation.

Mr. CANNON. Why not amend this bill by providing that in the event that hereafter there is a recovery by the next of kin this so-called foster mother shall give bond to return the money?

Mr. CANDLER. You might just as well defeat the bill, because you could never tell how long it would be held up under such a provision as that.

Mr. ROSE. There are some features of this case that are becoming perfectly plain to me now. If this soldier named this woman as his beneficiary under this policy, believing her to be his mother, and the records of the court show that ever since his early childhood she has been occupying the position of a mother to him, then, it seems to me, under the law of any State of the Union that woman has an insurable interest in the boy's life.

Mr. CANNON. But the court records can not show that.

Mr. CANDLER. She stood in loco parentis to him from the time he was eight months old.

Mr. CANNON. Would the court records show that?

Mr. CANDLER. The court records would not show that, but the record of the orphan asylum would show it.

Mr. EVANS of Nevada. Mr. Chairman, it seems to me that if we settle this case on the legal technicalities we will be considering it until next winter; but if this boy thought she was his mother and that he was her adopted son, and if this is his last will and testament, and he plainly seeks to leave that money to her, I think his desires and intentions in the matter should be regarded as conclusive on the House.

Mr. CANDLER. Mr. Chairman, I move that the bill be laid aside to be reported to the House with a favorable recommendation.

The CHAIRMAN. The gentleman from Mississippi moves that the bill be laid aside to be reported to the House with a favorable recommendation.

The question being taken, on a division (demanded by Mr. BLANTON) there were—ayes 50, noes 4.

Accordingly the motion was agreed to.

#### THE ARUNDEL SAND & GRAVEL CO.

The next business on the Private Calendar was the bill (H. R. 5345) for the relief of the Arundel Sand & Gravel Co.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That the claim of the Arundel Sand & Gravel Co., a corporation organized and existing under the laws of the State of Delaware and doing business in the city of Norfolk, Va., owner of the steam tug *A. G. Bigelow*, against the United States for damages alleged to have been caused by collision between the said tug and the U. S. S. *Susquehanna* in Norfolk Harbor on the 26th day of November, 1917, may be sued for by the said Arundel Sand & Gravel Co. in the district court of the United States for the eastern district of Virginia, sitting as a court of admiralty and acting under the rules governing such court, and said court shall have jurisdiction to hear and determine such suit and to enter a judgment or decree for the amount of such damages and costs, if any, as shall be found to be due against the United States in favor of the Arundel Sand & Gravel Co., or against the Arundel Sand & Gravel Co. in favor of the United States upon the same principles and measures of liability as in like cases in admiralty between private parties and with the same rights of appeal: *Provided*, That such notice of the suit shall be given to the Attorney General of the United States as may be provided by order of the said court, and it shall be the duty of the Attorney General to cause the United States attorney in such district to appear and defend for the United States: *Provided further*, That said suit shall be brought and commenced within four months of the date of the passage of this act.

Mr. ROSE. Mr. Chairman, I ask to substitute for the House bill the bill S. 1670, which has been reported favorably by the

Committee on Claims this morning. It is a similar bill, word for word.

The CHAIRMAN. The gentleman from Pennsylvania asks unanimous consent that the Senate bill passed by the Senate, S. 1670, be substituted for the House bill. Is there objection? There was no objection.

Mr. ROSE. Mr. Chairman, I want to say that the sole purpose of this bill is to give the Arundel Co. the right to sue the Government for damages sustained by reason of the negligence of the barge owned by the Government of the United States. This is the character of claim that frequently comes before the Claims Committee and there never is any opposition. The Claims Committee has not recommended the payment of a single cent and only asks that the right be given the company to bring a suit in the proper court of the United States, and that notice shall be given.

Mr. ELSTON. Mr. Chairman, will the gentleman yield?

Mr. ROSE. Yes.

Mr. ELSTON. I have introduced a similar bill to pay damages for a collision between a United States vessel and a private tug. My recollection is that the naval officials in the local naval district passed on the claim, in so far as they were authorized to do so, and made a favorable recommendation. That correspondence was sent here with a draft of the bill. Now, do I understand that it is not the proper procedure to introduce a bill to pay the claimant, but to authorize the claimant to sue in the United States district courts for the amount of the claim? Is that what I am to understand is the only recourse, and that the committee will not consider a proposition of reporting out a bill to pay the amount of the claim itself?

Mr. EDMONDS. If it is a claim stated and agreed to by the Navy Department, the committee would appropriate the amount. But in this case there is a dispute as to who is the proper party to pay the damage.

Mr. ELSTON. That explains the proposition. In the case I have mentioned the amount of the liability has been agreed upon.

Mr. EDMONDS. Where it has been agreed upon the committee will make the appropriation.

Mr. ROSE. In this case the department is willing that an adjustment shall be made, but there is a dispute as to which party shall pay the damage.

The CHAIRMAN. The Clerk will read the bill for amendment.

The Clerk read the bill, as follows:

A bill (S. 1670) for the relief of the Arundel Sand & Gravel Co.  
*Be it enacted, etc.,* That the claim of the Arundel Sand & Gravel Co., a corporation organized and existing under the laws of the State of Delaware and doing business in the city of Norfolk, Va., owner of the steam tug *A. G. Bigelow*, against the United States for damages alleged to have been caused by collision between the said tug and the U. S. S. *Susquehanna* in Norfolk Harbor on the 26th day of November, 1917, may be sued for by the said Arundel Sand & Gravel Co. in the District Court of the United States for the Eastern District of Virginia, sitting as a court of admiralty and acting under the rules governing such court, and said court shall have jurisdiction to hear and determine such suit and to enter a judgment or decree for the amount of such damages and costs, if any, as shall be found to be due against the United States in favor of the Arundel Sand & Gravel Co., or against the Arundel Sand & Gravel Co. in favor of the United States upon the same principles and measures of liability as in like cases in admiralty between private parties and with the same rights of appeal: *Provided*, That such notice of the suit shall be given to the Attorney General of the United States as may be provided by order of the said court, and it shall be the duty of the Attorney General to cause the United States attorney in such district to appear and defend for the United States: *Provided further*, That said suit shall be brought and commenced within four months of the date of the passage of this act.

Mr. EDMONDS. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The question was taken; and on a division (demanded by Mr. BLANTON) there were 48 ayes and no noes.

So the motion was agreed to.

The House bill was laid on the table.

Mr. BLANTON. Mr. Chairman, it is 5 o'clock, and I make the point of order that there is no quorum present.

Mr. MADDEN. Oh, we have just one more bill, a very short one, and I will ask the gentleman to withhold the point for a moment.

Mr. EDMONDS. I will move to rise then.

Mr. BLANTON. Very well; I withdraw the point.

W. L. ROSE.

The next business on the Private Calendar was the bill (H. R. 1275) for the relief of W. L. Rose.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to W. L. Rose, of Sacramento, Calif., late of the United States Navy, the sum of \$66.12 to indemnify him for clothing and property lost on the United States ship *Yosemite* November 18, 1900.

Mr. EDMONDS. Mr. Chairman, this amount of money would have been paid to this man if he had known the law, which required him to file his claim within two years. It came in five days too late. He did not get his money. I might say that he is not related in any way to the gentleman from Pennsylvania [Mr. ROSE], a member of the committee. Mr. Chairman, I ask for the second reading of the bill.

The CHAIRMAN. The Clerk will report the bill for amendment.

The Clerk read the bill.

Mr. ROSE. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The question was taken; and on a division (demanded by Mr. BLANTON) there were—ayes 44, noes none.

So the bill was laid aside with a favorable recommendation.

Mr. EDMONDS. Mr. Chairman, I move that the committee do now rise and report the bills that have been laid aside with a favorable recommendation to the House with the recommendation that they do pass, and that the bills H. R. 6377 and 5345 do lie upon the table.

The motion was agreed to.

Accordingly the committee rose; and the Speaker pro tempore (Mr. TILSON) having assumed the chair, Mr. LONGWORTH, Chairman of the Committee of the Whole House, reported that that committee had had under consideration bills on the Private Calendar, and had directed him to report back to the House the bills H. R. 6857, 7030, 3258, 1024, 795, 5346, 5807, 3211, 1266, 1275, and the bill S. 1670, without amendment, with the recommendation that the bills do pass, and that the bills H. R. 6377 and 5345 do lie upon the table.

The SPEAKER pro tempore. The Clerk will report the first bill.

The Clerk reported the title of the bill (H. R. 6857) to authorize the change of the name of the steamer *Charlotte Graver* to *T. K. Maher*.

Mr. EDMONDS. Mr. Speaker, I move the previous question on the bill to final passage.

The question was taken; and on a division (demanded by Mr. BLANTON) there were—ayes 35, noes 0.

So the previous question was ordered.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. EDMONDS, a motion to reconsider the vote by which the bill was passed was laid on the table.

The SPEAKER pro tempore. The Clerk will report the next bill.

The Clerk reported the title of the bill (H. R. 7030) for the relief of Martin Goldsmith.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and on a division (demanded by Mr. BLANTON) there were—ayes 35, noes 0.

So the bill was passed.

On motion of Mr. EDMONDS, a motion to reconsider the vote by which the bill was passed was laid on the table.

The SPEAKER pro tempore. The Clerk will report the next bill.

The Clerk reported the title of the bill (H. R. 3258) for the relief of Julius Jonas.

Mr. EDMONDS. Mr. Speaker, I move the previous question on the bill to final passage.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. EDMONDS, a motion to reconsider the vote by which the bill was passed was laid on the table.

The SPEAKER pro tempore. The Clerk will report the next bill.

The Clerk read as follows:

A bill (H. R. 1024) authorizing the Secretary of the Interior to issue patent to John Zimmerman for certain lands in the Colorado National Forest upon the surrender of other lands of equal acreage also located in the Colorado National Forest, Colo.

The bill was ordered to be engrossed and read the third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.



The question was taken, and the Speaker pro tempore announced that the ayes seemed to have it.

On a division (demanded by Mr. BLANTON) there were—ayes 40, noes 0.

So the bill was passed.

On motion of Mr. VAILE, a motion to reconsider the vote by which the bill was passed was laid on the table.

The SPEAKER pro tempore. The Clerk will report the next bill.

The Clerk read as follows:

A bill (H. R. 795) for the relief of Arthur Wendle Englert.

Mr. EDMONDS. Mr. Speaker, I move the previous question on the bill.

The previous question was ordered.

The bill was ordered to be engrossed and read the third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. BLANTON. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BLANTON moves to recommit the bill to the Committee on Claims, with instructions to report the same back to the House forthwith with the following amendment: On page 1 strike out "\$500" and insert "\$62."

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken, and the Speaker pro tempore announced the noes seemed to have it.

Mr. BLANTON. Division, Mr. Speaker, and, pending that, I make the point of no quorum.

Mr. HUMPHREYS. Will the gentleman withhold it until I can prefer a request for unanimous consent about another matter?

Mr. BLANTON. Yes; I will withhold it for a moment.

The SPEAKER pro tempore. The gentleman withholds his point of no quorum.

Mr. HUMPHREYS. Mr. Speaker, I ask unanimous consent that the proceedings in the Speaker's room yesterday when the silver set was presented to Gen. McCain may be printed in the Record.

The SPEAKER pro tempore. The gentleman from Mississippi asks unanimous consent that the proceedings yesterday in reference to the presentation of a silver service to Gen. McCain be printed in the Record. Is there objection? [After a pause.] The Chair hears none.

Mr. BLANTON. Mr. Speaker, I renew my motion that there is no quorum present.

#### ADJOURNMENT.

Mr. EDMONDS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 13 minutes p. m.) the House adjourned until to-morrow, Saturday, November 1, 1919, at 12 o'clock noon.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Attorney General of the United States, transmitting a tentative draft of an amendment to an act entitled "An act to provide further for the national security and defense by encouraging the production, conserving the supply, and controlling the distribution of food products and fuel," approved August 10, 1919 (H. Doc. No. 283); to the Committee on Agriculture and ordered to be printed.

2. A letter from the Secretary of the Interior, transmitting a tentative draft of a bill to amend the explosives act of October 6, 1917 (H. Doc. No. 284); to the Committee on Mines and Mining and ordered to be printed.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. SIMS, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (S. 3193) to authorize the Tennessee Bridge Co., a corporation chartered under the laws of the State of Tennessee, to construct a bridge across the Tennessee River near Loudon, Tenn., reported the same without amendment, accompanied by a report (No. 430), which said bill and report were referred to the House Calendar.

Mr. MONTAGUE, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 9947) to authorize J. L. Anderson and H. M. Duvall to construct a bridge across Great Pee Dee River near the town of Cheraw, S. C., reported the same with amendments, accompanied by a report (No. 431), which said bill and report were referred to the House Calendar.

Mr. ESCH, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 10135) for the construction of a bridge across Rock River at or near East Grand Avenue, in the city of Beloit, Wis., reported the same without amendment, accompanied by a report (No. 432), which said bill and report were referred to the House Calendar.

Mr. VOLSTEAD, from the Committee on the Judiciary, to which was referred the concurrent resolution (H. Con. Res. 35) approving the recent statement issued by the President of the United States regarding the threatened strike in the coal fields of the United States and pledging the support of the Congress to the President in the exercise of all his constitutional powers in the premises, reported the same with an amendment, accompanied by a report (No. 434), which said concurrent resolution and report were referred to the House Calendar.

#### REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. RHODES, from the Committee on Indian Affairs, to which was referred the bill (H. R. 9615) authorizing the Secretary of the Interior to correct an error in an Indian allotment, reported the same without amendment, accompanied by a report (No. 433), which said bill and report were referred to the Private Calendar.

#### CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 9405) granting an increase of pension to May J. Wode; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 10149) granting an increase of pension to Catharine E. Brinkmann; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

#### PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. KAHN: A bill (H. R. 10305) to obtain revenue and to promote and encourage the production of chrome and chromium ores and manufactures thereof in the United States and its possessions; to the Committee on Ways and Means.

By Mr. HUMPHREYS: A bill (H. R. 10306) to provide for an additional major general in the Army; to the Committee on Military Affairs.

By Mr. MILLER: A bill (H. R. 10307) to advance one grade upon the retired list certain retired Army officers serving on active duty during the emergency incident to the war with Germany and Austria; to the Committee on Military Affairs.

By Mr. QUIN: A bill (H. R. 10308) to authorize the issue to States and Territories and the District of Columbia of rifles, shotguns, pistols, machine guns, and other property for the equipment of home guards; to the Committee on Military Affairs.

By Mr. HUDSPETH: A bill (H. R. 10309) to provide for the establishment of a division of patrol guard in the Bureau of Immigration, and for other purposes; to the Committee on Immigration and Naturalization.

By Mr. KELLEY of Michigan: A bill (H. R. 10310) to promote the efficiency of the United States Navy; to the Committee on Naval Affairs.

By Mr. HAUGEN: A bill (H. R. 10311) to further amend section 8 of an act entitled "An act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes," approved June 30, 1906, and amended by the act approved March 3, 1913; to the Committee on Agriculture.

By Mr. CAMPBELL of Pennsylvania. Resolution (H. Res. 370) instructing Civil Service Commission and Postmaster General to allow former soldiers, sailors, and marines advanced standing in appointment as first-class postmasters; to the Committee on Reform in the Civil Service.

By Mr. RUCKER: Resolution (H. Res. 371) authorizing the printing of Public Health Bulletin No. 98, entitled "Health Almanac, 1920"; to the Committee on Printing.

By Mr. McARTHUR: Joint resolution (H. J. Res. 243) authorizing the Secretary of War to loan to the city of Portland, Oreg., tents, cots, blankets, and pillows for the use of visitors attending the forty-sixth annual session of the Imperial Council, Ancient Arabic Order, Nobles of the Mystic Shrine, in June, 1920; to the Committee on Military Affairs.

#### PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CAMPBELL of Kansas: A bill (H. R. 10312) granting an increase of pension to Nathaniel Sandford; to the Committee on Invalid Pensions.

By Mr. CHRISTOPHERSON: A bill (H. R. 10313) for the relief of William Casey; to the Committee on Claims.

By Mr. FORDNEY: A bill (H. R. 10314) granting an increase of pension to John O. McMahon; to the Committee on Pensions.

By Mr. HERSMAN: A bill (H. R. 10315) for the relief of Hilbert A. C. Jensen; to the Committee on Military Affairs.

By Mr. KNUTSON: A bill (H. R. 10316) granting a pension to Matthew F. Patch; to the Committee on Pensions.

By Mr. LANHAM: A bill (H. R. 10317) for the relief of Blanche Utley; to the Committee on Claims.

By Mr. MAJOR: A bill (H. R. 10318) granting an increase of pension to Louisa Mawhinney; to the Committee on Invalid Pensions.

By Mr. NEWTON of Minnesota: A bill (H. R. 10319) granting an increase of pension to Conrad H. Rowe; to the Committee on Pensions.

By Mr. NOLAN: A bill (H. R. 10320) granting an increase of pension to Alice Barkley; to the Committee on Pensions.

By Mr. PURNELL: A bill (H. R. 10321) granting a pension to Emma L. Lindsay; to the Committee on Invalid Pensions.

By Mr. RUCKER: A bill (H. R. 10322) granting an increase of pension to John H. Price; to the Committee on Invalid Pensions.

By Mr. SELLS: A bill (H. R. 10323) granting a pension to Jesse J. Renfro; to the Committee on Pensions.

By Mr. WILLIAMS: A bill (H. R. 10324) granting a pension to James Steele; to the Committee on Invalid Pensions.

#### PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Petition of Ninetieth Division Association, regarding compulsory military service; to the Committee on Military Affairs.

By Mr. CAMPBELL of Pennsylvania: Petition of certain citizens of Allegheny County, Pa., expressing opposition to the Smith-Towner educational bill; to the Committee on Education.

By Mr. ELSTON: Petition of California Civic League, urging passage of the Jones-Baker bill giving military rank to Army nurses; to the Committee on Military Affairs.

Also, petition of Alameda Parlor, No. 47, Native Sons of the Golden West, urging restriction of Japanese immigration and land colonization; to the Committee on Immigration and Naturalization.

By Mr. FULLER of Illinois: Petition of the Ottawa (Ill.) Business Men's Association and Hess Bros., of Somonauk, Ill., opposing the Siegel and other price-fixing measures; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Rockford (Ill.) Manufacturers and Shippers' Association, concerning patent legislation; to the Committee on Patents.

Also, petition of the Illinois Manufacturing Association, opposing House bill 8572; to the Committee on Immigration and Naturalization.

Also, petition of the Ninetieth Division Association, favoring universal military training and an adequate Regular Army; to the Committee on Military Affairs.

Also, petition of U. S. Grant Post, Grand Army of the Republic, of Chicago, Ill., favoring the Fuller bill, House bill 9369; to the Committee on Invalid Pensions.

By Mr. HERSMAN: Petition of citizens of California, praying for the repeal of the tax on ice cream and soda-fountain foods and drinks; to the Committee on Ways and Means.

By Mr. HUTCHINSON: Petition of Retail Grocers' Association of the Chamber of Commerce of Trenton, N. J., urging Government action relative to the equitable distribution of the available sugar supply; to the Committee on the Judiciary.

Also, petition of Newark Military Service Rifle Club, indorsing the plan of the Secretary of War to make the Caldwell rifle ranges a permanent Government training ground and urging the appropriation for the same; to the Committee on Military Affairs.

By Mr. NEWTON of Minnesota: Resolution by the city council of the city of Minneapolis, requesting the Congress of the United States to fix the profits to be allowed manufacturers, jobbers, and retailers of sugar, and to provide for an equitable distribution of sugar; to the Committee on Interstate and Foreign Commerce.

By Mr. NOLAN: Petition of Vallejo Metal Trades Council, Vallejo, Calif., favoring the passage of House bill 7041; to the Committee on Public Buildings and Grounds.

By Mr. RAKER: Petition of Clayburgh Bros., Hills Bros., Hulse-Bradford Co., Levi Strauss & Co., D. De Bernard & Co., Dolliver & Bro., Sells Bros. & Co., Langley & Michaels Co., Walton N. Moore Dry Goods Co., A. Schilling & Co., Greenebaum, Weil & Michels, W. P. Fuller & Co., Pacific Coast Syrup Co., Rogers Shoe Co., Elkus Co., Marvin Shoe Co. (Inc.), L. Samter & Sons, C. A. Hutton Flour Co., B. Hart & Co., O'Rourke, Eubanks Hat Co., and Garcia & Maggini Co., all of San Francisco, Calif., protesting against the passage of House bill 8315; to the Committee on Interstate and Foreign Commerce.

Also, petition of Excelsior Parlor, No. 31, of Jackson; Georgetown Parlor, No. 91, Native Sons of the Golden West, of Georgetown; McCloud Parlor, No. 149, Native Sons of the Golden West, of Redding; Chispa Parlor, No. 40, Native Sons of the Golden West, of Ione; and Stockton Parlor, No. 7, Native Sons of the Golden West, of Stockton, all in the State of California, protesting against immigration from oriental countries; to the Committee on Immigration and Naturalization.

Also, petition of Grain Dealers' National Association, of Toledo, Ohio, regarding grain business and Government control of the price of grain and flour; to the Committee on Agriculture.

Also, petition of Women's Council, of Sacramento, Calif., urging the exclusion of the Japanese from this country and an amendment to the Constitution so that no person can become a citizen of this country by being born here whose parents are of a race that is ineligible for citizenship; to the Committee on Immigration and Naturalization.

Also, petition of Hamilton County League of Building Associations, for complete census of the housing situation, the tenant-farmer proposition, and also a complete census of the building and loan associations; to the Committee on the Census.

Also, petition of Langley & Michaels Co., of San Francisco, Calif., against House bill 5123; to the Committee on the Post Office and Post Roads.

Also, petition of Sun Harbor Packing Corporation, of San Diego, Calif., supporting House bill 8422; to the Committee on the Merchant Marine and Fisheries.

By Mr. VARE: Petition of Federal Employees' Union No. 23, proposing reclassification of employees of customs service only in such manner as will give the employees of the department a voice; to the Committee on Reform in the Civil Service.

#### HOUSE OF REPRESENTATIVES.

SATURDAY, November 1, 1919.

The House met at 12 o'clock noon.

In the absence of the Chaplain, the Members, at the request of the Speaker, joined in the Lord's Prayer.

#### LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. WALTERS, for three days, on account of business.

To Mr. CLARK of Missouri, for three days, on account of the death of his little grandson.

#### EXPRESSIONS OF SYMPATHY.

Mr. MONDELL. Mr. Speaker, I think it is fitting and proper that we should give a moment's consideration to the sad announcement that has just been made of the death of the beloved grandson of ex-Speaker CLARK. I am sure that we all sympathize deeply and sincerely with the father and mother and the grandfather and the grandmother of this beloved child who has just passed to the great beyond. We trust that the Great Father will bring balm to the hearts of the bereaved parents, grandparents, and friends.

Mr. DUPRÉ. Mr. Speaker, in behalf of those who sorrow in my home city of New Orleans, where this child has just passed away, I wish to thank the gentleman from Wyoming, and I know